



RIGA
GRADUATE
SCHOOL OF
LAW



Constitutional Court of
the Republic of Latvia

European Society of International Law

12th Annual Conference

How International Law Works in Times of Crisis

Riga, 8 – 10 September 2016

PROGRAMME

In recent years the world has yet again been confronted with events that required decisions going to the heart of the international legal order, which it has sought to build since the creation of the United Nations and, especially, since the fall of the Berlin Wall. The European Society of International Law has been looking into questions about the need for and legitimacy of international law. The 2016 ESIL annual conference in Riga is taking place at a time when the word 'crisis' frequently comes to mind, either with reference to the European public order or international law in general, and the question of the role of international law is more pertinent than ever.

The territorial integrity of many States continues to be undermined. The rise of ISIS and the continued proliferation of other violent extremist groups provide serious challenges to the world order we have striven to build. Crises around the world range from more traditional threats to territorial integrity and security, through the use of modern technology or forms of warfare, to more fundamental challenges to the planet through climate change and environmental threats. Problems in the global, European and national economies and financial markets provide yet further examples of crises. Many of these developments are interlinked. For example, the unprecedented flow of migrants and refugees into Europe is linked to security, the economy, and climate change. This is all taking place at a time when globalization is a reality and traditional societal boundaries are continually being eroded through ever-developing interdependencies while at the same time faced with growing nationalism.

These developments raise challenges at two levels. One is to ask whether international law itself is in crisis. Is it possible to identify challenges to the basic underpinnings of the traditional international legal order that would be qualitatively different from those faced previously? Another way of posing the question is to enquire whether international law is up to the task of dealing with particular crises. It should, of course, be recognized that crises are not new for the discipline of international law. It has been argued that a sense of crisis is integral to the discipline. The role, relevance and institutions of international law have always been challenged, especially when faced with different kinds of crisis. Moreover, moments of crisis may offer new possibilities. Historically, such moments have led to new solutions in the world community, including new projects involving normative developments. Be that as it may, international lawyers should confront and address this sense of crisis embedded in their discipline.

Against this background, the ESIL Conference in Riga will address the theme ***How International Law Works in Times of Crisis***.

The conference will provide an opportunity to discuss the crisis of international law, the international law of crisis, and also different biases and assumptions that contribute to questions about crisis. Questions that will be discussed include: In times of crisis, how does international law work? More specifically: How is international law rising to the challenge of contemporary crises, of capturing old and factually new phenomena and dealing with them in a normative context? What is the role of international lawyers in addressing the old and new crises? What role is assumed by (regional) organizations and the European Union in particular as well as non-state actors in this context of multiple tensions and multiple visions of the past and the future? This focus invites legal and interdisciplinary approaches to address these issues more generally as well as in different specialised areas of international law.

Pre-Conference Meetings

RGSL: Riga Graduate School of Law

LU: University of Latvia

Unless stated otherwise, all other conference events are to be held at the National Library of Latvia (Latvijas Nacionālā bibliotēka)

Wednesday, 7 September 2016

9:30 - 18:00	Registration of Participants	RGSL
9:30 - 18:00	Registration of Participants	LU

Interest Groups

11:00 - 18:00	<i>Interest Group on International Economic Law</i>	RGSL Rm. W-42
11:00 - 18:00	<i>Interest Group on International Bio Law International Workshop. International Biolaw in Times of Crisis: Progress and Challenges</i>	RGSL Rm. W-41
11:00 - 18:00	<i>Interest Group on the Law of the Sea PhD and Research Forum: Enforcement at Sea: Legal and Operational Challenges in Maritime Security</i>	LU Rm. 452
11:00 - 18:00	<i>International Legal Theory and International Environmental Law Interest Group</i>	LU Rm. 1
13:00 - 16:00	<i>Interest Group on International Courts and Tribunals</i>	LU Room 8
13:00 - 18:00	<i>Interest Group on International Human Rights Law</i>	RGSL Rm. W-23
14:00 - 17:00	<i>Interest Group on the History of International Law Workshop: Writing Crisis in the History of International Law</i>	RGSL Rm. W-20
14:30 - 18:30	<i>Interest Group on International Business & Human Rights (followed by Business meeting from 17:30 - 18:30)</i>	RGSL Rm. W-31
15:00 - 19:00	<i>Interest Group on the European Union as a Global Actor</i>	Constitutional Court of Latvia

Thursday, 8 September 2016

08:00 - 17:00	Registration of participants	National Library of Latvia
08:00 - 09:00	Breakfast meeting: ESIL Board meets ESIL Interest Group Conveners <i>All Interest Group conveners are invited to a breakfast meeting with members of the ESIL Board</i>	Restaurant "Klīversala"
09:00 - 09:30	Opening Ceremony <i>(Interpretation will be available into Latvian, English and French during the morning sessions)</i>	Ziedonis Hall

Speakers:

George Ulrich, Rector, Riga Graduate School of Law

Aldis Laviņš, Chairman of the Constitutional Court of Latvia

André Nollkaemper, President of ESIL; University of Amsterdam

Dzintars Rasnačs, Latvian Minister of Justice

Inese Lībiņa-Egnere, Vice-Speaker of the Parliament of Latvia

- 09:30 - 11:00 **Opening Discussion: *How International Law Works in Times of Crisis*** *Ziedonis Hall*
Moderator:
Anne van Aaken (University of St. Gallen)
Speakers:
Judge James Crawford (International Court of Justice)
Lauri Mälksoo (University of Tartu)
Catherine Redgwell (University of Oxford)
- 11:00 - 11:30 Coffee break
- 11:00 - 11:30 **Poster Session**
- 11:30 - 13:00 **Pauls Raudseps** (Weekly "IR") discusses ***The Relevance of International Law in Crisis Situations*** with Latvian Minister of Foreign Affairs **Edgars Rinkēvičs** *Ziedonis Hall*
- 13:00 - 14:30 Lunch
- 13:00 - 14:30 **Meet the Jurist – ESIL Mentoring Event**
- 14:30 - 16:00 **Parallel Agorae** *Ziedonis Hall*

Agora 1: New Forms of Warfare and Armed Conflict

Chair:

Claus Kress (University of Cologne)

Since its inception, international humanitarian law has been a constantly evolving field of international law. It has frequently been normatively out of step with events that it ought to have regulated *ex ante*. This Agora will discuss whether the existing normative framework of the law of armed conflict provides sufficient solutions to contemporary challenges, in particular those posed by new forms of warfare.

Speakers:

Aeyal Gross (Tel-Aviv University; SOAS, University of London) *The Writing on the Wall – Toward jus ad occupation (v. jus in occupation)*

Helene Højfeldt (Aarhus University), *Targeting (Returning) Foreign Fighters*

Asaf Lubin (Yale University), *Blind Oracles: regulating intelligence gathering, analysis, and verification for conducting wartime aerial strikes*

Ozlem Ulgen (Birmingham City University), *Human dignity in an age of autonomous weapons: are we in danger of losing an 'elementary consideration of humanity'?*

Agora 2: European Human Rights Architecture: Progress and Setbacks

"Jurista Vārds" Hall

Chair:

Judge Danutė Jočienė (Constitutional Court of Lithuania; Mykolas Romeris University)

While Europe is proud of its human rights protection mechanisms at national and European levels, especially with the European Court of Human Rights and the individual right of complaint to the Court, in recent years a number of fundamental issues have challenged the human rights architecture. Some States have posed difficult questions about the system and CJEU Opinion 2/13 prominently questioned the competences of and responsibilities for human rights protection in Europe. This Agora will discuss whether these developments are necessary element towards further progress or whether they are setbacks for the system.

Speakers:

Kushtrim Istrefi (University of Graz) *The future engagement of European courts with Security Council targeted sanctions*

Panos Kapotas (University of Portsmouth) & **Vassilis Tzevelekos** (University of Liverpool), Between Fragmentation and Convergence in European Human Rights Law: The European Consensus Method of Interpretation

David Kosar (Masaryk University, European Human Rights Architecture: The Crucial Role of the Domestic Level

Katja Ziegler (University of Leicester) The Clash of the two Europes? The Impact of EU Law on the Conventions of the Council of Europe

Agora 3: Minority Rights: Human Rights and Security Considerations

“LETA” Hall

Chair:

Gudmundur Alfredsson (University of Akureyri, Riga Graduate School of Law)

The protection of minority rights has always posed challenges for international law. For fear of alleged secessionist movements and for other reasons, States have been reluctant to grant far-reaching rights to national minorities. This is demonstrated by the lack of clarity in international standards on minority rights, the fact that even a commonly accepted definition of the term 'minority' in international law is still lacking, and the weak international monitoring system. At the same time, national protection of minority rights is often perceived as being inconsistent and inadequate, and today the question of minorities is more pressing than ever. This Agora will discuss the limitations of the present international regime in the light of current threats to minorities.

Speakers:

Stephanie E. Berry (University of Sussex), Securitising Minorities – Risking fragmentation between International Human Rights and International Minority Rights

Alejandro Fuentes (Raoul Wallenberg Institute of Human Rights and Humanitarian Law), Exploitation of natural resources and protection of communal property over indigenous peoples' traditional lands and territories. The Inter-American Court of Human Rights' safeguards.

Parvathi Menon (Max Planck Institute Luxembourg for Procedural Law), The Uncomfortable Balance between a Minority and a People: The Global/Local Disconnect

Sarah Stephan (Project Officer, OSCE High Commissioner on National Minorities; Åbo Akademi University), Legal frameworks for a “perplexing encounter:” An exploration of the legal relationships between the Nordic Council/Council of Ministers and the EU and the Nordic self-government regimes

Agora 4: Is International Law on State Immunity in Crisis?

“Diena” Hall

Chair:

Philippa Webb (Dickson Poon School of Law, Kings College London)

The international law on the jurisdictional immunities of foreign States, their organs and assets abroad remains highly controversial. The aim of this Agora is to discuss areas of uncertainty and controversy in the law of state immunity. One example is the question of whether fair trial rights must take priority over the protection of State sovereignty, especially in relation to grave violations of human rights committed by individual state organs. While a large scholarly movement claims and courts of some States have answered this question in the affirmative, other international and domestic judicial practice, along with the International Law Commission, appear more reluctant to accept such changes. Other questions are whether the old-fashioned distinction between *acta iure imperii* and *acta iure gestionis* is still workable or whether it should be updated, and whether the traditional distinction between immunity from jurisdiction and immunity from execution is still tenable. What

ways forward can be identified that would better protect the human rights of individuals, the legitimate interests of foreign private entities, and the unimpeded exercise by States and their organs of their public functions abroad? To what extent are these developments linked to the ongoing discussion about the changing structures of statehood?

Speakers:

Stefano Dominelli (University of Genoa), Current Challenges to the International Law of Immunity: European and Italian Perspectives on Possible (R)evolutions of the System

Anne-Catherine Fortas (Université Panthéon-Assas), Corruption et immunités en droit de l'investissement *presented by Gleider Hernandez* (Durham University)

Aisling O'Sullivan (University of Sussex), The Struggle to Build a "Court of Humanity": The Debate surrounding Immunity of State officials in International Criminal Law

Pavel Šturma (Charles University in Prague), How to limit immunity of State officials in relation to grave violations of human rights? Between the definition of official acts and exceptions

16:00 - 16:30 Coffee break (*sponsored by the Max Planck Institute for Comparative Public Law and International Law*)

Address by Anne Peters (Director at the Max Planck Institute for Comparative Public Law and International Law)

16:30 - 18:00 **Parallel Fora**

Forum 1: Territorial Disputes in Europe: What Role for International Law in the 21st Century?

"Jurista Vārds" Hall

Chair:

Christian Tams (University of Glasgow)

It has been estimated that there are more than 150 territorial disputes in today's world and some of the most worrisome lie in Europe. While territorial disputes continue to be a dominant feature of the interstate system, the legal framework for resolving such disputes is changing. We live in a world of increased transboundary movements of people, capital, goods, services, and information. Evidently territorial disputes and sovereignty claims today are taking place within a changing framework where territoriality has become less important. This forum will discuss whether the law relating to territorial disputes is suited for resolving modern controversies. Does international law offer any means to contain and resolve territorial disputes in their modern forms and how does it accommodate the increasing incidence of transboundary movements?

Speakers:

Artem V. Malgin (Moscow State Institute of International Relations)

Enrico Milano (University of Verona)

Ruth Wedgwood (SAIS, Johns Hopkins University)

Judge Ganna Yudkivska (European Court of Human Rights)

Forum 2: Contemporary Economic and Financial Crises and the Limits of International Regulation

Ziedonis Hall

Chair:

Margot E. Salomon (London School of Economics)

The 2008 financial crisis that hit Europe led to an ongoing adaptation of global roles and institutions. Eight years on, challenges are still manifold. Despite attempts at the international level by the G20, the International Monetary Fund and the Financial Stability Board to address financial and economic instability by providing

more effective (financial) market regulation and fighting tax evasion and corruption, the need for greater coordination and collective action by governments and international financial institutions remains. Beggar-thy-neighbour policies, mercantilist thinking, disguised protectionism and new geopolitical developments continue to challenge effective global cooperation. In a world which to a large extent remains intergovernmental, the limits of international regulation depend on states' financial capabilities and political will. This forum will explore contemporary economic and financial issues in the globalized economy and the extent to which current international regulatory mechanisms are able to address them.

Speakers:

Luc Frieden (former Minister of Finance, Luxembourg; Chairman of the Board, Banque Internationale Luxembourg SA)

Inge Kaul (Hertie School of Governance)

Michael Waibel (University of Cambridge)

18:00 - 19:00	Conversation with the ESIL Book Prize Winner	<i>Ziedonis Hall</i>
18:00 - 19:00	Parallel ESIL Interest Groups Business Meetings	
	IG on Migration and Asylum Law	<i>"Jurista Vārds" Hall</i>
	IG on the International Legal Theory and International Environmental Law	<i>"LETA" Hall</i>
	IG on the EU as a Global Actor	<i>"Diena" Hall</i>
19:30	Reception hosted by H.E. President of the Republic of Latvia Raimonds Vējonis	

Location: Riga Castle (Rīgas pils)

Address: Pils laukums 3, Riga

Dress code is Dark Suit

Friday, 9 September 2016

08:00 - 09:00	Breakfast Meeting: ESIL Board meets new ESIL Members	Restaurant "Klīversala"
09:00 - 10:30	Parallel Fora	

Forum 3: History in Dispute: The Relevance and Role of Judicial Authentication and Its Consequences *"Jurista Vārds" Hall*

Chair:

Judge Ksenija Turković (European Court of Human Rights)

There are always different perspectives on historical events and many disputes remain over historical facts. As the number of international tribunals has increased and the scope of their jurisdiction has widened, such disputes are increasingly brought to the attention of international adjudicators. Their possible engagement ranges from the establishment of a historical record in international criminal adjudication or taking note of the relevant historical background in human rights cases to questions of delimitation and the settlement of boundary disputes by the International Court of Justice or arbitral tribunals. This forum will explore the involvement of international courts with history. How much of history should properly be left to adjudication by international courts and tribunals, and why? How have courts dealt with the challenges of history in dispute, and what are the consequences of such involvement?

Speakers:

Ignacio De La Rasilla Del Moral (Brunel Law School)

Anne Peters (Max Planck Institute for Comparative Public Law and International Law)

Forum 4: The Refugee (Law) Crisis *Ziedonis Hall*

Chair:

Alice Edwards (Convention against Torture Initiative)

In the last few years, Europe has seen the arrival of ever more people fleeing their homes, often arriving from other continents. This development poses major challenges for the immigration and asylum policies of European states and of the European Union and questions are being raised about their compliance with international refugee law and human rights law. This forum will explore contemporary issues pertaining to the position of Europe and European law in the light of the current refugee crisis. For example, is a common view on the refugee crisis possible in Europe? And can the crisis be addressed within the context of the existing international legal framework?

Speakers:

Elsbeth Guild (Radboud University; Queen Mary University of London; Centre for European Policy Studies)

Nils Muiznieks (Commissioner for Human Rights, Council of Europe)

Boldizsár Nagy (Eötvös Loránd University; Central European University)

Madeline Garlick (Office of the United Nations High Commissioner for Refugees)

10:30 - 11:00 Poster Session

10:30 - 11:00 Coffee break (*co-sponsored by Brill Publishers*)

11:00 - 12:30 **Parallel Agorae**

Agora 5: International Law and the Baltic States

“LETA” hall

Debate supported by the Baltic Yearbook of International Law and Brill Publishers

Chair:

Mārtiņš Paparinskis (University College London)

After a long period of Soviet occupation the Baltic States reclaimed their independence and joined the European Union and NATO. They have maintained their claims to State continuity and endorsed international human rights law. However, the episode of the occupation still gives rise to many questions that are of more than historical importance. This Agora will discuss how realism and a quest for justice have conflicted, both during the Soviet period and following the restoration of independence, and what solutions could be found.

Speakers:

Gleb Bogush (Lomonosov Moscow State University), *Dubious Legacy: Assessing the contribution of the Eastern European Practice to International Criminal Law*

Eva Kalnina (Lévy Kaufmann-Kohler; European University Institute), *Baltic States and International Investment Law*

Maxim Timofeev (European Humanities University), *Kononov and Vasiliauskas: A Battle Over History Within the ECtHR’s Walls*

René Värk (University of Tartu), *Russia’s Misrepresentation and Misuse of International Law*

Agora 6: Are Cyber Security and Privacy Reconcilable?

Ziedonis Hall

Chair:

Nicholas Tsagourias (University of Sheffield)

The growth of information and communication technologies has created significant challenges. One of them is the protection of human rights in cyberspace, including the right to privacy, coupled with legitimate concerns of the industry and governments about cyber security and misuse of the Internet. The more the Internet becomes central to our daily lives, the more acute these challenges become. On one side, a recent report noted that state efforts to address the security of information technologies must go hand in hand with respect for human rights and fundamental freedoms. Similar sentiments were expressed by the UN General Assembly and the Human Rights Council in their resolutions on privacy in the digital age. On the other side, cybercrime, industrial and other espionage, the use of the Internet for propagating extremist ideologies and other forms of misuse of new technologies require growing (and costly) investment in cyber security. Users may even disengage if the perceived disadvantages of the use of Internet start outweighing the perceived advantages. This Agora will

examine the lines drawn between security concerns and fundamental freedoms, who gets to make the relevant decisions and in what processes, and the role of international cooperation in this respect.

Speakers:

Théodore Christakis (Université Grenoble Alpes; Institut Universitaire de France), The Internet of Things (IoT): Challenges for Cybersecurity, Privacy and the Legal Order

Kubo Mačák (University of Exeter), Power Vacuum 2.0: Is the International Law of Cyber Security in Crisis?

Irena Nesterova (University of Latvia), The Crisis of Privacy and Sacrifice of Personal Data in the Name of National Security: the CJEU Rulings Strengthening EU Data Protection Standards

Adamantia Rachovitsa (University of Groningen), "Humanizing" the Net? How to Conceptualise the Relationship between Cyber Security and Privacy?

Agora 7: Implementing the 2030 Agenda for Sustainable Development: what role for international law?

"Jurista Vārds" Hall

Chair:

Maria Varaki (Kadir Has University)

With the adoption of the 2030 Agenda for Sustainable Development, the General Assembly has taken a major step toward addressing one of the most structural sets of crisis of our time: the continuing poverty, inequality and injustice across the world, as well as the crisis in environmental sustainability. While the 2030 Agenda contains few express references, international law provides a powerful subtext for this Agenda. On the one hand, to a large extent, the very problems that the Agenda seeks to address are caused by structural biases of international law. On the other hand, international law may provide important building blocks for effective action in relation to poverty, inequality and environmental sustainability, including financing and investment for development.

Speakers:

Noora Arajärvi (Humboldt University of Berlin), Sustainable Development Goals and the International Rule of Law: Substantive, Procedural and Normative Reflections

Ilze Dubava (Riga Graduate School of Law), The Future We Want: Sustainable (Economic) Development as an Inherent Aim of Foreign Investment Protection

Jaye Ellis (McGill University), The A-legality of Sustainable Development

Gregory Messenger (University of Liverpool), Sustainable Development and the International Regulation of Commodities: Tensions and Opportunities

Agora 8: The Gendered Imaginaries of Crisis in International Law

"Diena" Hall

(Roundtable discussion convened by Feminism and International Law Interest Group)

Chair:

Bérénice K. Schramm (SOAS, University of London)

Law, and international law in particular, is a powerful site for imaginaries, those enshrined in the values protected by the norms and principles it is made of, overlapping with those projected onto the subjects and objects of said norms/principles. Thinking about international law, and acting within its ambit, mobilises, and therefore validates, certain visual and rhetorical images of the world revolving around invisible yet forceful, historical and political cognitive structures such as gender, as well as race and class. The use of sanitized vocabulary or the focus on certain aspects of crises and not on others makes in turn for a selectivity within international law itself. The international agenda is therefore narrowed down in accordance, on the basis of what international lawyers consider their "heroic mission" to be, which is also seen in international law's treatment of women, either a victim of conflict or a western hero. These stereotypes are inadequate to fully address the systemic and complex positionalities women experience in conflict or post-conflict societies as

well as peacetime, nor the various and contradictory uses that are made of gender in international law-making and operationalization.

This roundtable (agora) seeks to convene various perspectives on the ways current crisis-ridden international law, or utopian crisis-free international law, thrive on instrumental gendered narratives, as well as how the contributions feminist approaches can offer enlarged critical engagement with the status quo of international law and its blind focus on crisis.

Speakers:

Marion Blondel (University of Bordeaux), La vulnérabilité comme vertu: Recherche d'une transposition du care en droit international

Zeynep Kivilcim (Istanbul University), La démocratie radicale dans les discours légaux contemporains au Rojava au coeur de la «crise» Syrienne: Une analyse genrée *via Skype*

Dianne Otto (University of Melbourne), Feminist Aspirations and Crisis Law: Navigating Uncomfortable Convergences and New Opportunities

Jaya Ramji-Nogales (Temple University Beasley School of Law) International Law and the Construction of Crisis: Feminist Approaches

12:30 - 14:00 Lunch: Meeting of International Law Journals Editors

Restaurant "Kliversala"

14:00 - 15:30 **Parallel Fora**

Forum 5: Global Governance in a World of Multiple Tensions

"Jurista Vārds" Hall

Chair:

Jan Wouters (Catholic University of Leuven)

70 years after its founding, the United Nations, together with other international organizations, has been instrumental in the development of a more legitimate international order. In addition, international organizations have come to regulate state behaviour in ways that were not originally foreseen. Many hope that through the principles of the UN, intergovernmental cooperation, and the peaceful settlement of disputes, problems faced by humankind such as armed conflicts, poverty, radicalization and many others, will be addressed. However, international organizations oftentimes do not live up to such hopes and expectations. This may give rise to pessimism, or even a sense of permanent crisis in global governance. This forum will explore whether, despite multiple tensions, the system of international organizations can effectively address global problems and contribute to the furtherance of the idea of global governance. What elements in these international mechanisms might undermine the idea of global governance? And are there sufficient elements of global governance in place to prevent forces and tendencies pulling nations back into a more disordered world?

Speakers:

Eyal Benvenisti (University of Cambridge)

Hilary Charlesworth (Australian National University) *paper presented by*

Dianne Otto (University of Melbourne)

Barbara Koremenos (University of Michigan)

Ilze Rūse (Ambassador of the Republic of Latvia to the Kingdom of the Netherlands, Associate Professor at Riga Graduate School of Law)

Forum 6: The Enforcement of International Law in (a) Crisis

Ziedonis Hall

Chair:

Therese O'Donnell (University of Strathclyde)

The enforcement of international law has always been seen as a weakness of the international system. International law's link to politics remains a constant. The degree of enforcement of international law varies from high enforcement in areas of low politics to rather low enforcement in sensitive and crisis-prone areas. In

times of high-stakes crises, international law is sometimes dismissed as irrelevant. A whole new set of challenges to traditional structures based on interstate relations results from the emergence of non-state actors, be they individuals or multinational companies. On the one hand, activities of non-state actors that undermine international law have prompted states to search for new forms of enforcement of international law that would effectively address these activities. Interstate sanctions affecting individuals (who are at the same time protected by, for example, human rights law and investment law) demonstrate that international law is in a transition phase where the place of non-state actors remains unclear. On the other hand, the involvement of private actors and markets in the enforcement of international law has become more prominent, sometimes radically changing pre-existing enforcement problems. Moreover, many links between states and non-state actors remain, posing questions about the addressees of the enforcement measures taken under international law. This forum will reflect on whether we need to conceptualize different approaches to enforcement in order to understand why, when and how international law is effectively enforced.

Speakers:

Jessica Almqvist (Universidad Autónoma de Madrid)

Enzo Cannizzaro (Sapienza University of Rome)

Steven Ratner (University of Michigan)

Marco Sassòli (University of Geneva)

15:30 - 16:00 Poster Session

15:30 - 16:00 Coffee break (*sponsored by Foley Hoag LLP*)

16:00 - 17:30 **ESIL General Assembly**

Ziedonis Hall

17:30 - 19:00 **Parallel Fora**

Forum 7: Challenges for European Governance

Ziedonis Hall

Chair:

Armin von Bogdandy (Max Planck Institute for Comparative Public Law and International Law, University of Frankfurt/Main)

The emergence of the humanitarian, security, financial, and other crises in recent years poses challenges to European governance. The governance architecture in Europe, as it has developed after WWII, with the overlapping roles of the EU, the Council of Europe, the OSCE, NATO and various other institutions, is increasingly coming under scrutiny by governments as well as the general public.

Moreover following the seismic shock of Brexit, the UK is in political, economic and social crisis with deep divisions that one can observe in many societies. There are racist and xenophobic incidents. One needs to think what the current situation portends for the future of the EU and indeed the wider post-1945 international community.

While the emphasis has largely been on the economic aspects of Brexit, more attention needs to be paid to issues of sovereignty, territorial breakups and security or indeed, the democracy and human rights aspects of this decision for the UK, Europe and the wider international community.

This forum will explore whether this incrementally developed governance structure can provide solutions for Europe's problems. Does the system allow for effective and speedy decision-making when needed? What is the role of national interests in this complex European governance system? Is it clear in whose name, and for whose benefit, the various institutions act? Can the institutions, most notably the EU, provide the necessary leadership to enable the strengthening of the international law system?

Speakers:

Anneli Albi (University of Kent)

Deirdre Curtin (European University Institute)

Ilze Juhansone (Deputy Secretary-General of the European Commission and the Protocol Service)

Irene Blázquez Navarro (National Security Department, Cabinet of the Prime Minister of Spain; Autónoma University of Madrid)

Chair: **Jānis Kažociņš** (National Security Adviser to the President of Latvia, Secretary to the National Security Council)

The panel will address preventive and punitive dimensions concerning incitement to terrorism, including through the Internet, and the legal and other dimensions of the foreign terrorist fighters phenomenon. Both topics will be discussed against the framework of international law and put into European context by providing assessments of the draft EU Directive on the countering of terrorism (aimed at replacing the 2002 Framework Decision) and reflections on recent terrorist attacks in Europe, including ISIS-inspired suicide terrorism.

Speakers:

Helen Duffy (Director of ‘Human Rights in Practice’; University of Leiden)
Christophe Paulussen (Senior Researcher at the T.M.C. Asser Instituut; Research Fellow at the International Centre for Counter-Terrorism – The Hague)
Martin Scheinin, (European University Institute; former UN Special Rapporteur on human rights and counter-terrorism)

20:00 Conference Dinner

Pre-dinner welcome drinks sponsored by Oxford University Press

Location: The Riga Latvian Society House Big Hall (Rīgas Latviešu biedrības nama Lielā zāle)

Address: Merķeļa iela 13, Rīga

Saturday, 10 September 2016

09:00 - 10:30 **Parallel Agorae**

Agora 9: International Response to Challenges of Climate Change: The Law of Politics and the Politics of Law

Ziedonis Hall

Chair:

Sandrine Maljean-Dubois (Aix-Marseille University; CNRS)

The Riga conference will meet at a defining moment in international policy and law-making. As science indicates, time is running out. A new agreement (scheduled for adoption in December 2015) is a unique chance to put the world on a path to a climatically safe future. This Agora will discuss how international law has responded, and can respond, to increasingly alarming warnings from science on climate change, with a particular focus on the intersection between law and politics in this area. Questions to be discussed include: What are the roles of politics and law in relation to climate change and how do they intersect or deviate? What can we learn about the fairness and effectiveness of international legal responses in the context of problems involving collective action and strong political interests? Is there a limit to the ability of international law to deal with a problem of this complexity and with such a long-term horizon? Are the processes of international law-making attuned to the sense of urgency conveyed by scientific reports? What are the advantages and promises – and the pitfalls and limitations – of multilateralism? Is UN-based multilateralism past its sell-by date? Are there any (acceptable) alternatives?

Speakers:

Annalisa Savaresi (University of Stirling), The Paris Agreement: Reflections on an International Law-making Odyssey
Fernando Dias Simoes (University of Macau), Investment Law and Climate Change: Green Expectations in Grey Times
Maria Panezi (The Centre for International Governance Innovation) *via Skype*

Agora 10: International Legal Advice and Decision Making in Times of Crisis

"LETA" Hall

(convened by the ESIL Interest Group on Peace and Security)

Chair:

Aristoteles Constantinides (University of Cyprus)

The processes through which international law shapes decision making within Governments are rarely explored. In large part this perhaps reflects the fact that for the most part these processes are rarely public. Yet there are instances where these issues come to the fore and shine a line on how international law shapes decision making within Governments in times of crisis. This Agora explores this question of how international law shapes decision making within Governments in times of crisis through a number of such instances, including: the response of the European Union to the Paris Terrorist Attacks; the UK's Chilcot inquiry into the decision to intervene in Iraq; and the U.S.-led coalition against 'Islamic State' in Iraq and Syria and parliamentary war powers.

Speakers:

Carlos Espaliú Berdud (Universitat Internacional de Catalunya), The EU Response to the Paris Terrorist Attacks and the Reshaping of the Right of Collective Self-Defence

Stephen Bouwhuis (Attorney-General's Department, Australia), What the UK's inquiry into its decision to intervene in Iraq tells us about International Law in times of crisis

Patrycja Grzebyk (University of Warsaw), The authorization of attacks in response to terrorist attacks – a dark side of the Law of Armed Conflicts

Luca Ferro (Ghent University), Parliamentary war powers and the role of international law in times of crisis – the U.S.-led coalition against 'Islamic State' in Iraq and Syria

Agora 11: Law of the Sea: As ever, between Selden and Grotius

"Diena" Hall

Chair:

Photini Pazartzis (National and Kapodistrian University of Athens)

In recent years European seas have faced several challenges, such as a dispute over the Arctic continental shelf, attempts by Georgia and Ukraine to limit merchant shipping to and from occupied territories in the Black Sea and, more generally, increasing competition for scarce maritime resources, including fisheries, oil and gas resources, and deep seabed mining. Moreover, activities such as human trafficking, migration and piracy all pose challenges to what appeared to be a stable body of law. While these particular challenges are new, they are also part of a long-standing tension between territoriality (as reflected in the work of Selden) and freedom of the seas (associated with Grotius). This Agora will discuss whether current developments pose structural challenges for the law of the sea or whether they can be accommodated within the dominant regime. Is there a need for new solutions within or beyond the UN Law of the Sea Convention? What approaches should be taken to deal with new challenges in the law of the sea?

Speakers:

Freya Baetens (Leiden University), Shared fish stocks in crisis: An analysis of international transboundary resources management through the prism of UNCLOS and WTO disputes concerning the EU Common Fisheries Policy

Erik Franckx (Vrije Universiteit Brussel), Art. 234 LOSC (Selden?) v. Polar Code (Grotius?) in the Arctic: Development of International Law in Areas of Tension

Chie Kojima (Musashino University), Privatization of the Law of the Sea: An Alternative to Selden and Grotius?

Alina Miron (University of Angers), Resources of undelimited maritime areas, *res nullius* or *res propria*?

Agora 12: The Challenge of Illiberal Actors and Movements to the Liberal

"Jurista Vārds" Hall

International Legal Order

Chair:

Judge Iulia Motoc (European Court of Human Rights; University of Bucharest)

The international legal order is oftentimes characterised as a liberal one. The post-second world war international law promises autonomy, territorial integrity, the right to self-defence and the right to self-determination to States. In return it imposes duties on States to respect human rights internally. The current realpolitik seems to be far removed from this. Authoritarianism and totalitarianism are on the rise. Globally and at the local level, there has been a surge in violent movements such as ISIL/Da'esh in the Middle East, and Boko Haram in Nigeria and surrounding countries. Radicalization finds support in many parts of the world. Vulnerable groups, in particular women, are at the receiving end of illiberal actors and movements. Has the consensus on the liberal international legal order come to an end? How does the liberal international legal order combat illiberal forces and actors? Does it succeed?

Speakers:

Martin Dawidowicz (University of Oxford), Between War and Words: The Role of Third-Party Countermeasures in a Crisis

Sandra Krähenmann (Geneva Academy of International Humanitarian Law and Human Rights) & **Sharon Weill** (Sciences-Po; The Graduate Institute, Geneva), The Challenge of Illiberal Actors and Movements to the Liberal International Legal Order - Foreign fighters vs the Liberal International Legal Order

Christian Marxsen (Max Planck Institute for Comparative Public Law and International Law), Violation and reconfirmation of the law – the intricate effects of illegal State actions

Aleš Weingerl (University of Oxford), The Liberal International Legal Order in Crisis – from Ideological Colonisation to the Caliphate

10:30 - 11:00 Coffee Break

11:00 - 12:30 **Final Lecture** by **Jean-Marc Sauvé**,
Vice President of the Council of State (France)

Ziedonis Hall

Moderator:

Judge Ineta Ziemele (Constitutional Court of Latvia; Riga Graduate School of Law)

12:30 - 13:00 **Closing Ceremony**

Ziedonis Hall

André Nollkaemper, President of ESIL