

International Law

Academic year 2020-2021

The Law and Practice of International Organizations

DI022 - Autumn - 6 ECTS

Thursday 16h15 – 18h00

Course Description

The theory and practice of international organizations is a dynamic and important dimension of world politics and international law. This course provides an introduction to the field, focusing on the interaction between international law and politics in international organizations. The course has an institutional approach, dealing with the structural and governance aspects of international organizations rather than their substantive functions. It begins by briefly exploring theoretical perspectives on the role and nature of international institutions and providing examples of global and highly institutionalized organizations. The second part of the course addresses cross-cutting institutional issues, including law-making, judicial review, and the role of the executive head of international organizations. Particular attention will be given to issues of responsibility, legitimacy and accountability that are shaping most of the contemporary discourse on international organizations. The course will also look beyond “traditional” intergovernmental organizations and discuss new forms of international institutions and governance. The format of the course is primarily lectures and structured discussion.

> PROFESSOR

[Gian Luca Burci](#)

[Office hours](#)

> ASSISTANT

[Fekade A. Abebe](#)

[Office hours](#)

Syllabus

Course summary and purpose

This course is designed to give students of international law, international relations and related disciplines an appreciation of the relevance of international organizations in contemporary international law and politics and to provide an understanding of the main foundations of their legal nature, structure, governance, powers and competences, and limits thereto. The course will mostly focus on universal organizations. References and case studies from regional and sub-regional organizations will be made as appropriate. The course will not address the European Union in detail, which would deserve a separate course. The course is designed and meant to be an interactive experience, combining teaching with joint analysis of relevant cases and materials. Its success will depend on all students being well prepared for, and ready to participate in, each session.

The course will not be mostly about theoretical and conceptual issues, but will focus on “real life” legal, institutional, policy and operational issues that international organizations face. It will be open to students in disciplines other than international law, in particular political science, international affairs and development studies. The approach of the course, however, will be largely legal and some knowledge of public international law is required.

This course complements Professor Biersteker’s course on “Global Governance and Regulation: Actors and Processes” (IA095); Professor Dietz’s course on “Applying Organisation Theories to Practice” (IA091); and Professor Hofmann’s course on “International Governance” (RI-SP053).

Course materials and requirements

The readings for each class are listed below. Some readings may be subject to change and additional materials may be indicated or distributed directly in class. It is important that students read the materials assigned for each class in order to enable discussion and participation.

Most of the main materials for the course will be available on Moodle. Please do also explore the literature beyond the required readings; it is only through engaging with scholarship and primary sources on your own initiative that you will develop your own take on international institutions and the law governing them.

Class attendance is required. If a student will be absent, he/she should contact Professor Burci and Fekade Abebe to indicate the reason. Extended unjustified absences will lead to a grade reduction or even withdrawal from the course.

All important information (including this syllabus) will be posted regularly on the course's Moodle page. Log in information will be provided later by email when you register to the course. For any questions or problems, please get in touch with Fekade Abebe (E-mail-fekade.abebe@graduateinstitute.ch).

Evaluation

Grading will consist of a 10% component for class participation and 90% component for a final take-home exam.

Final exam

The final exam will consist of a legal and policy analysis and presentation of a hypothetical situation covering one or more of the topics examined in the course. The exam will be a take-home open book exam. Papers must be maximum 5000 words excluding footnotes and bibliography, double-spaced, 12-point font, with numbered pages and word count at the end. Footnotes can follow any common style such as OSCOLA, Chicago or Bluebook as long as they are clear and consistent. Final exams must include a bibliography of the primary and secondary sources used. Students will receive the topic of the exam at the last class and will have about 10 days to return it.

Since the IHEID has a policy of bilingualism, papers can be written in either English or French.

Assessment of the paper will focus on the capacity of students to demonstrate their understanding and critical approach to the topics as discussed during the course. The questions will not be excessively “technical” but will cover both legal as well as policy and strategic aspects. Students are expected to take fully into account the inevitable interaction of legal, institutional and policy considerations. Students may also be called to make proposals or express their views on the most appropriate solutions to the

problems under discussion.

Please note that papers will be assessed and graded not only on the basis of their contents but also of their linguistic quality. This does not intend to penalize students whose mother tongue is neither English nor French, but to ensure that what you are writing is understandable, clear and correctly phrased. Please make sure to proofread your paper before submission, or to seek other forms of support such as review by a native speaker or even proofreading software.

Plagiarism

Students are reminded of the IHEID's policy on citation of sources and plagiarism, contained in the document "Internal guidelines governing citation of sources and plagiarism", available on the Student Web Portal, that they have received upon registration. All final exams will be submitted to Professor Burci and Fekade Abebe through the Turnitin software available in the library. If your paper shows more than 20% of text copied from published or Internet sources, it will be submitted to the Direction of Studies in order to decide on the possible consequences.

Time and Location

All classes will be held on Thursdays from 16:15 to 18:00 in room S5. A few classes may have to be rescheduled if they conflict with imperative professional commitments of Professor Burci. The dates and locations of make-up classes will be agreed with students.

General readings on international organizations

There are a number of useful general books on the topics we will touch upon in the course, though none that covers them all. The main reading for the course will be Jan Klabbers, *An Introduction to International Organizations Law* (3rd ed., CUP 2015) (available in hard copy and e-book through the library). Enough copies will be reserved for consultation in the library.

Other general accounts of international institutions from a legal and international relations perspective that are particularly useful and recommended include:

- José E. Alvarez, *International Organizations as Law-Makers* (OUP 2005)
- José E. Alvarez, *The Impact of International Organizations on International Law* (Brill 2017)
- C.F. Amerasinghe, *Principles of the Institutional Law of International Organisations* (2nd ed., CUP 2005)
- Simon Chesterman, Ian Johnstone, David Malone, *Law and Practice of the United Nations: Documents and Commentary* (2nd ed., OUP 2016)
- Ian Hurd, *International Organizations: Politics, Law, Practice* (2nd ed., CUP 2013)
- Jacob Katz Cogan, Ian Hurd, Ian Johnstone, *The Oxford Handbook of International Organizations* (OUP 2016)
- Ph. Sands, *Bowett's Law of International Institutions* (6th ed., Sweet & Maxwell 2009)
- Henry Schermers and Niels Blokker, *International Institutional Law: Unity within Diversity* (6th ed., Brill 2018)

While students are encouraged to study the judgments referred to below from their primary source directly, it is also possible to consult C. Ryngaert, I.F. Dekker, R.A. Wessel and J. Wouters (eds.), *Judicial Decisions on the Law of International Organizations* (OUP 2016), which contains a summary and commentary of most of the case law that will be covered in the course. When cases are assigned throughout the course, the corresponding Moodle page will contain the relevant chapter from that book.

Course outline

Session 1

17 September

Introduction to the course and to international organizations

This class will review the approach and methodology of the course and will discuss some preliminary and background issues to set the context of the course. We will start discussing, in particular, the very concept of 'international organization', its constitutive elements as well as current taxonomies of international organizations.

Compulsory readings:

Jan Klabbers, *An Introduction to International Organizations Law* (3rd ed., CUP 2015), Chapter 2, pp.16-37.

Henry Schermers and Niels Blokker, *International Institutional Law: Unity within Diversity* (6th ed., Brill 2018), § 29-47.

Robert Kolb, 'International Organizations or institutions, History of,' in Rudiger Wolfrum(ed.) *Max Planck Encyclopedia of Public International Law*, (OUP 2011)

Suggested reading:

Statement by Mr. Miguel de Serpa Soares, Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, before the International Law Commission, 9 May 2018

Session 2

24 September

Personality, autonomy and applicable law

This session will address certain foundational issues of the law of international organizations which tend to raise questions and controversies in both theory and practice. In particular, we will discuss the international legal personality of international organizations, their autonomy and relation to member states, and the law applicable to international organizations as separate subjects of international law.

Primary sources:

Reparation for injuries suffered in the service of the United Nations, Advisory Opinion, ICJ, 11 April 1949.

Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia v. Greece), Judgment, ICJ, 5 December 2011.

Compulsory readings:

Jan Klabbers, *An Introduction to International Organizations Law* (3rd ed., CUP 2015), Chapter 3, pp. 41-50.

Henry Schermers and Niels Blokker, *International Institutional Law: Unity within Diversity* (6th ed., Brill 2018), § 1559-1581.

Jan Klabbers, "Interminable Disagreement: Reflections on the Autonomy of International Organisations," 88(1) *Nordic Journal of International Law* (2019) pp. 111-133

Suggested readings:

Kristina Daugirdas, "How and Why International Law Binds International Organizations", 57 *Harvard International Law Journal* (2016), pp. 325-381.

Session 3

1

October

Theoretical perspectives from international relations and international law

The phenomenon of international organizations has generated much critical analysis from both an international relations and international law perspective. Depending on the theoretical posture, the role and nature of international organizations can be perceived in considerably different ways. We will discuss the most important approaches and conceptual issues surrounding international organizations as well as the very question of whether and how we can talk about the law of international organizations as a discrete body of international law.

Compulsory readings:

Jeffrey Dunoff, 'The Law and Politics of International Organizations' in Jacob Katz Cogan, Ian Hurd, Ian Johnstone (eds.), *The Oxford Handbook of International Organizations* (OUP 2016), pp. 67-88.

Ian Hurd, *International Organizations: Politics, Law, Practice* (3rd ed., CUP 2018), Chapter 2, pp. 17-41.

Jan Klabbers, 'The Paradox of International Institutional Law', 5 *International Organizations Law Review* (2008), pp. 151-173.

Session 4

8

October

Governance

The institutional design of international organizations, in particular their governing bodies and other organs as well as their mutual relations, reflects a vision of international governance, political compromises as much as the particular concerns of different issue areas. In this class, we will look at some of the main structural features of the intergovernmental side of IO's governance and the relations between organs, with a particular focus on the UN system as the most important organic group of international organizations.

Primary sources:

Compulsory readings:

Jan Klabbers, *An Introduction to International Organizations Law* (3rd ed., CUP 2015), Chapter 10, pp. 207-218.

Henry Schermers and Niels Blokker, *International Institutional Law: Unity within Diversity* (6th ed., Brill 2018), § 1691-1701.

Paul Szasz, 'The complexification of the United Nations System', in 3 *Max Planck Yearbook of United Nations Law* (1999), pp. 1-35.

Ramses A. Wessel, 'Executive Boards and Councils,' in Jacob Katz Cogan, and others (eds.), *The Oxford Handbook of International Organizations* (OUP 2016) pp. 802-821

Suggested Readings:

Kirsten Schmalenbach, 'Dispute settlement,' in Jan Klabbers & Åsa Wallendahl, *Research Handbook on the Law of International Organizations*, (Elgar 2011) pp.251-284

Session 5

15 October

Membership and participation

The relationship between international organizations and their member states is at the basis of functionalist theories of IOs. However, states can act in international organizations in different ways at the same time and those interactions can generate legal and practical complexities. International organizations have been opening up more and more to other stakeholders in the name of inclusiveness and legitimacy, in particular NGOs and the private sector. Also these trends generate much debate and controversy and question models of international governance. In this class, we will discuss the various modalities of membership and other forms of interactions between IOs and states as well as some important questions on how IOs have opened up to participation of non-state actors.

Primary sources:

Admission of a State to the United Nations (Charter, Art. 4), Advisory Opinion, ICJ, 28 May 1948.

General Assembly Resolution on the status of Palestine in the United Nations, UN Doc.

A/Res/67/19 (4 Dec. 2012)

Report of the Secretary-General on the status of Palestine in the United Nations, UN Doc.

A/67/738 (8 March 2013)

WHO Framework of Engagement with Non-State Actors, 28 May 2016.

Compulsory readings:

Jan Klabbers, *An Introduction to International Organizations Law* (3rd ed., CUP 2015), Chapter 5, pp. 90-112.

Henry Schermers and Niels Blokker, *International Institutional Law: Unity within Diversity* (5th ed., Brill 2018), pp. 140-162.

Ramses Wessel and Ige Dekker, 'Identities of States in International Organizations', 12 *International Organizations Law Review* (2015), pp. 293-318.

Suggested readings:

Ramses Wessel, 'You Can Check out Any Time You like, but Can You Really Leave: On Brexit and Leaving International Organizations', 13 *International Organizations Law Review* (2016), pp. 197-210.

Session 6

22

October

The executive head and the secretariat

Executive heads and secretariats represent the institutional continuity of international organizations and distinguish them from other forms of international cooperation. The role, powers and methods of selection of executive heads are highly symbolic of the overall vision and role of international organizations. The rhetorical question whether the UN Secretary-General is a "secretary" or a "general" is indicative of this point. In this class, we will discuss the powers and political role of executive heads, their relations with member states, and what it means to be an international civil servant.

Primary Sources:

UN Charter, Articles 97-101.

WHO Constitution, Articles 30-37

'Election of the Director-General of the World Health Organization: Report of the Working Group,' World Health Assembly Resolution 65.15, WHA/65/2012/REC/1, adopted during the Sixty-fifth Health Assembly on 26 May 2012, Geneva, Switzerland.

'Following-up of the Report of the Working Group on the Election of the Director-General of the World Health Organization,' World Health Assembly Resolution 66.18, WHA/66/2013/REC/1, adopted during the Sixty-sixth Health Assembly on 27 May 2013, Geneva, Switzerland.

Compulsory readings:

Simon Chesterman, 'Executive Heads' in Jacob Katz Cogan, Ian Hurd, Ian Johnstone (eds.), *The Oxford Handbook of International Organizations* (OUP 2016), pp. 822-838.

Ian Johnstone, 'The Secretary-General as Norm Entrepreneur' in Simon Chesterman (ed.), *Secretary or General? The UN Secretary-General in World Politics* (CUP 2007), pp. 123-138.

Jan Klabbbers, *An Introduction to International Organizations Law* (3rd ed., CUP 2015), Chapter 11, pp. 242-263.

Touko Piiparinen, 'Secretariats', in Jacob Katz Cogan, Ian Hurd, Ian Johnstone (eds.), *The Oxford Handbook of International Organizations* (OUP 2016), 839-849.

Suggested readings:

Dag Hammarskjöld, 'The International Civil Servant in Law and in Fact', Lecture delivered to Congregation at Oxford University, 30 May 1961.

Session 7

29

October

The internal law of international organizations

International organizations are to a certain extent legally self-referential entities, endowed with administrative and regulatory autonomy to insulate their internal management from the applicability of national law. This is particularly visible in the management of their staff, the administration of justice for employment disputes, their contractual practices and their financing. Beyond self-administration, those issues also underlie important questions concerning the autonomy, mandate and vision of IOs. In this class, we will discuss some of the main questions arising from the nature of internal rules of IOs, the management of the international civil service and the models for financing IOs.

Primary sources:

Selected judgments of international administrative tribunals will be added later. The class may be divided in groups and asked to comment on those cases.

Compulsory readings:

Thordis Ingadottir, 'Financing international institutions', in Jan Klabbbers and Asa Wallendahl (eds.), *Research Handbook on the Law of International Organizations* (Edward Elgar 2011), pp. 108-131.

Santiago Villalpando, 'The Law of the International Civil Service', in Jacob Katz Cogan, Ian Hurd, Ian Johnstone (eds.), *The Oxford Handbook of International Organizations* (OUP 2016), pp. 1069-1084.

Santiago Villalpando, 'International Administrative Tribunals', in Jacob Katz Cogan, Ian Hurd, Ian Johnstone (eds.), *The Oxford Handbook of International Organizations* (OUP 2016), pp. 1085-1103.

Suggested reading:

Kristina Daugirdas and Gian Luca Burci, 'Financing the world health organization: What Lessons for Multilateralism', in (2019) 16(2) *International Organizations Law Review*, pp. 299-338

The competences of international organizations and their limits

The sources, scope and extent of the competences of international organizations and their organs have been discussed in practice and theory for a long time; functionalism has been the most popular theoretical model in this connection, in particular for practitioners within IOs. More recently, with the increase in power of organizations such as the UN, EU and NATO, the focus of scholarly and policy attention has shifted to the theoretical bases for controlling and limiting the powers of IOs. In this class, we will discuss some of the main theoretical and practical approaches to both powers and the limits thereto. The jurisprudence arising from the enforcement powers of the Security Council will be addressed as a case study.

Primary sources:

Yassin Abdullah Kadi v. Council and Commission, ECJ Judgment, 3 September 2008, paras. 1-45 and 280-380.

Prosecutor v. Tadic, Decision on the defense motion for interlocutory appeal on jurisdiction, ICTY, 2 October 1995 (see Session 4).

Legal Consequences for States for the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, ICJ, 21 June 1971.

Legality of the Use by a State of Nuclear Weapons in Armed Conflict, Advisory Opinion, ICJ, 8 July 1996

Al-Dulimi and Montana Management Inc. v. Switzerland, Judgment, ECtHR, 21 June 2016.

'Fair and clear procedures for a more effective UN sanctions system: Proposal to the United Nations Security Council by the Group of Like-Minded States on targeted sanctions', 12 November 2015.

Compulsory readings:

Jan Klabbbers, *An Introduction to International Organizations Law* (3rd ed., CUP 2015), Chapter 3, pp. 50-69.

Jan Klabbbers, 'Contending approaches to international organizations: Between Functionalism and constitutionalism' in Jan Klabbbers and Asa Wallendahl (eds.), *Research Handbook on the Law of International Organizations* (Edward Elgar 2011), pp. 3-30.

Jan Klabbbers, 'Controlling International Organizations: A Virtue Ethics Approach', *International Organizations Law Review* (2011), pp. 285-289.

Dapo Akande, 'The International Court of Justice and The Security Council: Is There Room for Judicial Control of Decisions of the Political Organs of the United Nations?', in 46 *International & Comparative Law Quarterly* (1997), pp. 309-343.

Suggested readings:

Antonios Tzanakopoulos, 'Strengthening Security Council Accountability for Sanctions: The Role of International Responsibility', in 19 *Journal of Conflict and Security Law* (2014), pp. 409-426.

Enzo Cannizzaro, Paolo Palchetti, 'Ultra vires acts of international organizations', in Jan Klabbers and Asa Wallendahl (eds.), *Research Handbook on the Law of International Organizations* (Edward Elgar 2011), pp. 3-30.

Erika de Wet, 'From Kadi to Nada: Judicial Techniques Favouring Human Rights over United Nations Security Council Sanctions', in 12 *Chinese Journal of International Law* (2013), pp. 787-808.

Session 9

12 November

Law-making

International law-making in different forms is one of the main reasons why international organizations have been created. Normative functions and processes have developed in unanticipated ways, raising questions of effectiveness, consent and legitimacy. A specific turn in this discussion has been the use by the Security Council of its enforcement powers under Chapter VII of the Charter to legislate in general terms with regard to international terrorism. In this class, we will discuss some of the main theoretical and practical aspects of law-making by international organizations, focusing also on technical and "soft" standards.

Primary sources:

ILC's draft conclusions on the identification of customary international law, with commentaries (2018) (in particular draft conclusions 4, 5, 6, 10 and 12)

UN Security Council Resolution 1373 (2001).

UN Security Council Resolution 1540 (2004).

WHO Global Code of Practice on the International Recruitment of Health Personnel, May 2010 (just browse it to get a gist of its content and approach).

Compulsory readings:

José Alvarez, *The Impact of International Organizations on International Law* (Brill 2017), pp. 345- 358.

José Alvarez, *International Organizations as Law-makers* (OUP 2005), pp. 217-257.

Alan Boyle and Christine Chinkin, *The Making of International Law* (OUP 2007), pp. 210-222.

Simon Chesterman, Ian Johnstone, David Malone, *Law and Practice of the United Nations: Documents and Commentary* (2nd ed., OUP 2016), pp. 144-162

Suggested readings:

Ian Johnstone, 'Legislation and Adjudication in the UN Security Council: Bringing Down the Deliberative Deficit', in 102 *American Journal of International Law* (2008), 275-308.

ILC Special Rapporteur's first report on general principles of law.

Session 10

19 November

Treaties and international organizations

Treaties play a prominent role in the everyday work of international organizations in different ways. This class will address how international organizations, in particular the United Nations, have revolutionized treaty-making as well as treaty implementation and monitoring. It will also analyse the questions raised by the conclusions of treaties by international organizations themselves, and the particular legal issues generated by constitutive instruments of international organizations as a special category of treaties.

Primary sources:

Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations (1986).

Compulsory readings:

Catherine Brölmann, 'International organizations and treaties: Contractual freedom and institutional constraint', in Jan Klabbers and Asa Wallendahl (eds.), *Research Handbook on the Law of International Organizations* (Edward Elgar 2011), pp. 285-312.

Olufemi Elias, 'Who can make treaties? International organizations', in Duncan Hollis (ed.), *Oxford Guide to Treaties* (OUP 2012), 73-91.

Jan Klabbers, *An Introduction to International Organizations Law* (3rd ed., CUP 2015) Chapter 4, pp. 70-89.

Kal Raustiala, 'NGOs in International Treaty-Making', in Duncan Hollis (ed.), *Oxford Guide to Treaties* (OUP 2012), pp.150-174.

Suggested readings:

Lee Swepston, 'Crisis in the ILO Supervisory System: Dispute over the Right to Strike', in 29 *International Journal of Comparative Labour Law* (2013), pp. 199-218.

Responsibility and accountability

The issue of responsibility of international organizations touches the core of their legal nature: when are they responsible and when are their member states? What are the primary obligations binding them and what are the consequences of their breach? Recent policy developments have also focused political and theoretical debates on how organizations can be made accountable for their actions beyond the more legalistic tools of responsibility. In this class, we will discuss some of the main issues and open questions arising from two distinct but partly overlapping concepts. We will use the 2011 ILC articles on responsibility of international organizations and discuss some recent cases concerning the UN.

Primary sources:

ILC Draft articles on the responsibility of international organizations, 2011.

Banković and others v. Belgium and others, Decision on Admissibility, ECtHR, 12 December 2001.

Behrami and Behrami v. France and Saramati v. France, Germany and Norway, Decision on Admissibility, ECtHR, 2 May 2007.

Al-Jedda v. United Kingdom, Judgment, ECtHR, 7 July 2011.

Nuhanović v. Netherlands, Judgment, Supreme Court of the Netherlands, 6 September 2013.

Prosecutor v. Al Bashir, Judgment, ICC Appeals Chamber, 6 May 2019.

Compulsory readings:

Simon Chesterman, Ian Johnstone, David Malone, *Law and Practice of the United Nations: Documents and Commentary* (2nd ed., OUP 2016), pp. 609-625.

Jan Klabbers, *An Introduction to International Organizations Law* (3rd ed., CUP 2015), Chapter 14, pp. 306-339.

Jan Klabbers, 'Self-control: International Organisations and the Quest for Accountability' in Malcolm Evans and Panos Koutrakos (eds.), *The International Responsibility of the European Union: European and International Perspectives* (OUP 2013), pp. 75-99.

Suggested readings:

Kristina Daugirdas, 'Reputation as a Disciplinarian of International Organizations', 113 *American Journal of International Law* (2019), 221-271.

Commentaries submitted by international organizations to the International Law Commission in 2011 on the work related to the responsibility of international organizations (UN Doc. A/CN.4/637 and Add.1).

José E. Alvarez, "Revisiting the ILC's Draft Rules on International Organization Responsibility," 105 *Proceedings of the Annual Meeting (American Society of International Law)-Harmony and Dissonance in International Law* (2011), pp. 344-348

Jan Wouters and Jed Odermatt, 'Are All International Organizations Created Equal' (2012) 9(1) *International Organization Law Review*, 7-14

Session 12

3 December

Immunities and judicial challenges

Privileges and immunities (P&Is) have developed as a powerful tool to safeguard the international nature and functions of international organizations and protect them from encroachment by member states. The functional basis for P&Is, however, and its comparisons with state immunities have been challenged both from a theoretical perspective and in the light of a few highly controversial cases arising out of UN's peace-keeping activities as well as of employment litigation. In this class, we will discuss some of the main legal and policy questions involved as well as a few case studies that well illustrate very different outcomes to the question of balancing protection of IO's functions with the protection of third parties.

Prof. Burci may divide the class in teams and assign case studies for presentation and discussion.

Primary sources:

Case of Waite and Kennedy v. Germany, Judgment, ECtHR, 18 February 1999.

Haiti cholera litigation in US courts:

1. Letter from the UN Legal Counsel to counsel for the victims of the Haiti cholera outbreak
2. *Delama Georges et al v. United Nations et al*, 13-CV-7146 (JPO)
3. 'Memorandum of Law in Further Opposition to the Government's Statement of Interest' (28 August 2014) (Add the judgment)

Srebrenica litigation in Dutch Courts and the European Court of Human Rights:

1. *Stichting Mothers of Srebrenica v. the Netherlands and the United Nations*, Court of Appeal, 30 March 2010, LJN: BL8979
2. *Stichting Mothers of Srebrenica and others v. the Netherlands*, Judgment, ECtHR, 11 June 2013, pp. 29-45.

Jam v. International Finance Corporation, US Supreme Court, Judgment, 27 February 2019.

Compulsory readings:

Jan Klabbers, *An Introduction to International Organizations Law* (3rd ed., CUP 2015), Chapter 7, pp. 130-153.

August Reinisch, 'To What Extent Can and Should National Courts Fill the Accountability Gap?', in 10 *International Organizations Law Review* (2014), pp. 572-587.

Nico Schrijver, 'Beyond Srebrenica and Haiti: Exploring Alternative Remedies against the United Nations', in 10 *International Organizations Law Review* (2014), pp. 588-600.

Suggested readings:

August Reinisch, 'Accountability of International Organizations according to National Law', 36 *Netherlands Yearbook of International Law* (2005), pp. 119-167.

Session 13

10 December

New institutional models: public-private partnerships and networks

Changes in the needs and structure of the international community have led to the emergence of new experimental forms of governance, structures and allocation of functions and authority. The phenomenon of "public-private partnerships" and other examples of informal or network governance have taken much prominence alongside critiques of the relevance of more "traditional" IOs as models of public legitimacy and governance. In this class, we will review some examples of public-private partnerships as well as theoretical and practical approaches to how to ensure the legitimacy and accountability of those new structures and their responsiveness to public goals and values.

Compulsory readings:

Gian Luca Burci, 'Public-Private Partnerships in the Public Health Sector', 6 *International Organizations Law Review* (2009), pp. 359-382.

Lorenzo Casini, 'Global Hybrid Public-Private Bodies: The World Anti-Doping Agency (WADA)', 6 *International Organizations Law Review* (2009), pp. 421-446.

Davinia Aziz, "Global Public-Private Partnerships in International Law," 2 *Asian Journal of International Law* (2012) pp.339-349

Lisa Clarke, "The Exercise of Public Power Over Global Health Through Public-Private Partnerships and the Question of Responsibility Under International Law," 105 *Proceedings of the Annual Meeting (American Society of International Law)-Harmony and Dissonance in International Law* (2011) 96-100

Suggested readings:

Liliana Andonova, *Governance Entrepreneurs: International Organizations and the Rise of Global Public-Private Partnerships* (CUP 2017), pp. 1-32.

Joost Pauwelyn, Ramses

Wessel and Jan Wouters, 'When Structures Become Shackles: Stagnation and Dynamics in International Lawmaking', 25 *European Journal of International Law* (2014), pp. 733- 763.

Session 14**17 December****Meet a practitioner and Wrap-up class**

Prof. Burci will invite the legal counsel or other senior official from a Geneva-based IO to discuss with the class the functions and role of that organization and some of the most interesting and challenging issues arising out of its functioning. Readings will be assigned later in consultation with the invited speaker. This class will also give the opportunity for a final wrap-up of the main issues discussed throughout the course.

