



Joint Workshop organised by the *European University Institute*, the *ESIL Interest Group on The EU as a Global Actor* and the *Centre for the Law of EU External Relations (CLEER)*

The EU and International Dispute Settlement

19 and 20 February 2015, Sala del Capitolo, Badia, European University Institute

The EU as a global actor is ever more involved in international treaty-making and in the work of international organisations. Its external action is no longer confined to international trade, or even more broadly economic affairs. Its participation in international law-making now ranges from trade to human rights, from investment protection to environmental matters, immigration, and much more. In tandem with this growing EU role, international dispute settlement is marked by the proliferation of international courts and tribunals. As a consequence, questions arise, *inter alia*, as to the role played by the EU in this process, the position of the EU and its Member States with regard to participation in IDS, the implications of international rulings within the European legal order, the European Court of Justice as constitutional court in dialogue/competing with other international judicial bodies, and the impact of IDS developments on private parties. This workshop seeks to examine the connections between the EU and international dispute settlement. The discussions and outcome will serve as the basis for an edited volume.

Rather than taking a sectoral approach, this workshop aims at a focus on horizontal / cross-cutting themes, which will allow us to combine insights from different sectors (e.g. trade, investment, human rights, the environment, security, immigration).

Contact persons: Anne Thies (a.thies@reading.ac.uk) and Ramses A. Wessel (r.a.wessel@utwente.nl)

Thursday, 19 February 2015

09.00-09.15 Welcome and Introduction to the Conference Theme (Anne Thies)

What do we understand by international dispute settlement for the purpose of this conference and subsequent publication; what do we aim for in these two days; what would we like the format (ie length of presentations, discussion) and final output to be?

09.15-11.00 1. The EU and IDS: Setting the Scene, Inside Out and Outside In

The European Union and International Dispute Settlement: Mapping Principles and Conditions (Christophe Hillion, Professor of European Law, University of Leiden and Sieps Stockholm, christophe.hillion@sieps.se; and Ramses A. Wessel, Professor of International and European Institutional Law, r.a.wessel@utwente.nl)

Challenges of IDS in EULaw (Andrés Delgado Casteleiro, Lecturer, University of Durham, andres.delgado-casteleiro@durham.ac.uk)

International Law Perspective on Dispute Settlement (Andrea Gattini, Professor of International Law, University of Padua)

11.00-11.30 *Coffee/Tea*

11.30-13.30 **2. Dispute Settlement Systems: Exclusive Jurisdiction and the Principle of Free Choice of Means**

In which cases do states have different options for dispute settlement and on the basis of which rules should a choice be made? How do dispute settlement systems of other international organisations relate to the EU? Under the EU Treaties the CJEU has exclusive jurisdiction to deal with disputes. How does this exclusive jurisdiction fit with IDS in which the MS may be parties?

The Exclusive Jurisdiction of the CJEU and the Unity of the EU Legal Order (Niilo Jääskinen, Advocate General, Court of Justice of the European Union, Niilo.Jaaskinen@curia.europa.eu)

The Exclusive Jurisdiction of the CJEU and the Sovereignty of States in IDS/free choice principle (Tobias Lock, Lecturer, University of Edinburgh, Tobias.Lock@ed.ac.uk)

EU Member States and International Arbitration (Anne Thies, Associate Professor in Law, University of Reading, a.thies@reading.ac.uk)

13.30-14.30 *Lunch*

14.30-16.30 **3. Managing Proliferation and Fragmentation**

As the EU concludes new treaties and agreements providing for IDS (e.g. FTAs), what efforts does it undertake to manage the proliferation of IDS and the fragmentation of international law? Do these agreements regulate the relationship between different types of IDS (e.g. FTAs and WTO dispute settlement)? What about disputes in the area of human rights or the environment or the law of the sea? Should the EU play a particular role in this respect? Are particular sectors in need of a continuous dialogue between arbitrators? Do we see possibilities for preliminary reference procedures?

The Academic's View... (Iris Canor, Professor at the Haim Striks School of Law, Colman, Tel Aviv – tbc)

The Practitioner's View... (Esa Paasivirta, Legal Service of the European Commission, esa.paasivirta@ec.europa.eu)

The Policy View... FTA Dispute Settlement (Lothar Ehring, Directorate-General for Trade of the European Commission, lothar.ehring@ec.europa.eu)

16:30-17:00 *Coffee/Tea*

17:00-19:00 **4. The EU as a Party to IDS: Case Studies**

What characterises the membership of the EU and/or its Member States to an 'international dispute settlement system'? How does the allocation of competences relate to questions of (co-)responsibility, and the EU and/or its Member States' participation in dispute settlement proceedings? Which challenges can be identified regarding the implementation of rulings stemming from the international sphere?

EU/Member States in the WTO Dispute Settlement System (Gracia Marin-Duran, Lecturer, University of Edinburgh, Gracia.Marin-Duran@ed.ac.uk)

The EU as a Respondent in ISDS and the Responsibility of International Organisations under Customary International Law (Catharine Titi, Postdoctoral Research Fellow, Université Panthéon-Assas Paris II, Catharine.Titi@u-paris2.fr)

The EU as Party before the European Court of Human Rights (Iulia Antoanella Motoc, Judge, European Court of Human Rights, Iulia.motoc@echr.coe.int)

Paper 4: (Danae Azaria, Lecturer, University College London, d.azaria@ucl.ac.uk) [*topic to be confirmed – possibly related to countermeasures/energy, or co-responsibility/ECT and WTO*]

20.00 *Dinner for speakers*

Friday, 20 February 2015

09.00-11.00 **5. Implementation and Effects of IDS Rulings in the EU Legal Order**

What are the effects of IDS rulings in the EU legal order and EU law? Should one distinguish between rulings in disputes to which the EU was a party, and those to which it was not? How are conflicts between IDS rulings and EU law settled: is EU law always supreme? What particular issues arise as regards implementation of IDS rulings by the EU? What role is there for the EU, and what role for the MS? What mechanisms are in place, if any?

The Role, Constraints and Opportunities of EU MS Courts in Implementing International Rulings (speaker tbc)

The Role, Constraints and Opportunities of the CJEU in Implementing International Rulings (Christina Eckes, Associate Professor, University of Amsterdam)

Judicial Dialogue and the Effects of International Rulings in EU Law (Piet Eeckhout, Professor in Law, University College London, p.eeckhout@ucl.ac.uk)

11.00-11.30 *Coffee/Tea*

11.30-13.30 **6. The EU, IDS and Private Interests**

How Do the Developments of IDS Relate to the Position of Individuals Under EU and International Law? What Role for the EU? (Ernst-Ulrich Petersmann, Emeritus Professor, European University Institute, Ulrich.Petersmann@EUI.eu)

Out of Control? The EU's Ambition to Create a Unified Patent System in Europe (Aurora Plomer, Professor in Law, University of Sheffield, A.Plomer@sheffield.ac.uk)

What DS Mechanisms are Within International Regulatory Bodies? (Hans Micklitz, Professor of Economic Law, European University Institute, Hans.Micklitz@eui.eu – tbc)

13.30-14.00 *Discussion on follow-up* (Ramses Wessel)