



GENERAL PRINCIPLES AS APPLIED BY INTERNATIONAL COURTS AND TRIBUNALS AND THE COHERENCE OF INTERNATIONAL LAW

LES PRINCIPES GENERAUX APPLIQUES PAR LES COURS ET TRIBUNAUX INTERNATIONAUX ET LA COHERENCE DU DROIT INTERNATIONAL

Paris, 21 - 22 June 2017

Organised under the auspices of the KU Leuven – Centre for Global Governance Studies, University of Oslo – Pluricourts and Centre Universitaire de Norvège à Paris, Centre Universitaire de Norvège à Paris, CUNP Fondation Maison des Sciences de l'Homme 54, Boulevard Raspail, 75006 Paris.

Organising Committee: Jan Wouters, Emanuel Castellarin, Mads Andenas.

1. Concept

The application by international courts and tribunals is the focus of this second Paris seminar on general principles of law in the international legal order.

The seminar is a tribute to Professor Alain Pellet, who is 70 this year and wrote his doctoral dissertation on general principles of law in international law (*Recherche sur les principes généraux de droit en droit international public*, Paris II, 1974, 504 pp).

Waldock referred to general principles as the ‘common law of the international community’. General principles clearly have a role beyond the residual and gap-filling. General principles provide a context in which constitutionalisation and hierarchy are discussed. They deal with institutional, procedural and substantive questions. Can the application of general principles by international courts and tribunals contribute – and if so, how and to what extent – to ensuring the coherence of international law?

General principles – with peremptory norms (*jus cogens*) at the core – constitute the general foundations of international law. In times of turmoil and when the treaty-making process and custom formation are less effective, general principles may play a more important role.

The seminar will bring together experts from academia and practice to discuss the contribution of general principles to the coherence of international law (i) through the jurisprudence of international courts at a general level; (ii) in constitutionalisation and hierarchy, including *jus cogens*; (iii) in developing interim, compensatory and other remedies and the principles of effectiveness; (iv) for the principles of

proportionality, subsidiarity and the doctrine of the margin of appreciation; and (v) for *res judicata*, *lis pendens* and other jurisdictional rules.

The purpose of this seminar is to provide a smaller forum for an informal exchange on the core issues, including how to take the project forward, including the prospect of forming a working group under the International Law Association on general principles of law in the international legal order.

This seminar builds on the first Paris seminar which took place on 23-24 March 2017. The first seminar focused on (i) the relationship between general principles and the other sources of international law; (ii) the interactions between general principles as a source of international law and the role of general principles in national and regional legal orders, such as EU law; and (iii) the specific role which general principles play in a number of selected sub-fields of international law.

The seminar will be held in English and French. Le séminaire se déroulera en français et en anglais.

Venue: **Centre Universitaire de Norvège à Paris, Centre Universitaire de Norvège à Paris, CUNP Fondation Maison des Sciences de l'Homme 54, Boulevard Raspail, 75006 Paris.**

Places are limited. Please register with paris.seminar2017@gmail.com

2. Programme

Wednesday 21 June 2017, 14.00 – 18.30

14.00 - 14.10 **Registration**

14.10 - 14.15 **Welcome Address**

Johs Hjellbrekke – Centre Universitaire de Norvège à Paris

Geir Ulfstein – PluriCourts, University of Oslo

Andreas Føllesdal – PluriCourts, University of Oslo

14.15 - 14.30 **Introduction - *General Principles as Applied by International Courts and Tribunals and the Coherence of International Law***

Mads Andenas – University of Oslo

14.30 - 15.00 **Keynote: *Pressing Problems of General Principles of Law as Applied by International Courts and Tribunals: What Contribution to the Coherence of International Law?***

Alain Pellet – Université Paris Ouest Nanterre La Défense

15.00 - 16.30 **GENERAL PRINCIPLES, *JUS COGENS*, AND THE “CONSTITUTIONALISATION” OF INTERNATIONAL LAW**

Chair: Bernard Stirn – Conseil d'Etat

Enzo Cannizzaro – University Roma 1, *La Sapienza*

Anne Charlotte Martineau – CNRS

Paolo Palchetti – University of Macerata

16.30 - 17.00 **Break**

17.00 - 18.30 ***RES JUDICATA, LIS PENDENS, AND OTHER JURISDICTIONAL RULES***

Chair: Enzo Cannizzaro – University Roma 1, *La Sapienza*

Paolo Palchetti – University of Macerata

Eirik Bjorge – University of Bristol
Niki Aloupi – University of Strasbourg
Emanuel Castellarin – University of Strasbourg
Benjamin Samson – Université Paris Ouest Nanterre La Défense

Thursday 22 June 2017, 09.30 – 16.00

09.45 - 11.00 **PROPORTIONALITY, SUBSIDIARITY, AND MARGINS OF APPRECIATION**

Chair: Edwige Belliard – Conseil d’Etat
Enzo Cannizzaro – Roma 1, *La Sapienza*
Andreas Føllesdal – University of Oslo
Matthew Saul – University of Oslo
Mads Andenas – University of Oslo

11.00 - 11.15 **Break**

11.15 - 12.30 **PRINCIPLES OF INTERNATIONAL RESPONSIBILITY: STATES AND NON-STATE ACTORS**

Chair: François Alabrune – Ministère de l’Europe et des Affaires étrangères
Paolo Palchetti – University of Macerata
Pierre Bodeau-Livinec – University Paris Nanterre
Federica Paddeu – University of Cambridge
Daniel Peat – Associate Legal Officer, International Court of Justice
Lawrence Hill-Cawthorne – University of Reading

12.45 - 13.45 **Lunch Break**

13.45 – 15.00 **INTERIM, COMPENSATORY AND OTHER REMEDIES, AND THE PRINCIPLES OF EFFECTIVENESS**

Chair: Catherine Kessedjian – Université Paris II
Juan Pablo Pérez León Acevedo – University of Oslo
Fabian Raimondo – Maastricht University
Riccardo Pisillo Mazzeschi – University of Siena
Hélène Tigroudja – Université Aix/Marseille
Mads Andenas – University of Oslo

15.00 - 16.00 **CONCLUDING DEBATE**

Chair : Andreas Føllesdal – University of Oslo
Enzo Cannizzaro – University Roma 1, *La Sapienza*
Geir Ulfstein – PluriCourts, University of Oslo
Paolo Palchetti – University of Macerata
Jan Wouters – KU Leuven – Centre for Global Governance Studies

Participants:

1. François Alabrune – Ministère de l'Europe et des Affaires étrangères
2. Niki Aloupi – University of Strasbourg
3. Mads Andenas – University of Oslo
4. Juan Pablo Pérez León Acevedo – University of Oslo
5. Pierre Bodeau-Livinec – University Paris Nanterre
6. Edwige Belliard – Conseil d'Etat
7. Eirik Bjorge – University of Bristol
8. Hanna Bourgeois, Leuven Centre for Global Governance Studies, KU Leuven
9. Enzo Cannizzaro – University Roma 1, La Sapienza
10. Emanuel Castellarin – University of Strasbourg
11. Marija Dordeska – George Washington University
12. Andreas Føllesdal – PluriCourts, University of Oslo
13. Johs Hjellbrekke – Centre Universitaire de Norvège à Paris
14. Catherine Kessedjian – Université Paris II
15. Anne Charlotte Martineau – CNRS
16. Ward Munters
17. Riccardo Pisillo Mazzeschi – University of Siena
18. Federica Paddeu – University of Cambridge
19. Paolo Palchetti – University of Macerata
20. Daniel Peat – Associate Legal Officer, International Court of Justice
21. Alain Pellet – Université Paris Ouest Nanterre La Défense
22. Fabian Raimondo – Maastricht University
23. Benjamin Samson – Université Paris Ouest Nanterre La Défense
24. Matthew Saul – University of Oslo
25. Bernard Stirn – Conseil d'Etat
26. Hélène Tigroudja – Université Aix/Marseille
27. Geir Ulfstein – PluriCourts, University of Oslo
28. Evelien Wauters – Leuven Centre for Global Governance Studies, KU Leuven
29. Jan Wouters – Leuven Centre for Global Governance Studies, KU Leuven