2019 World Congress of

the International Association for

the Philosophy of Law and Social Philosophy

Lucerne

**Special workshop No 91 The Legitimacy of International Courts**

**July 9, 2019 -- Draft programme**

14.00-18.30, Museggstrasse 313

Convenor: Andreas Follesdal, PluriCourts, University of Oslo

States have established several regional and international courts and tribunals (ICs) to resolve disputes, interpret treaties, and deter illegal behavior, for a range of issues including: human rights, trade, investment and international crimes. But we witness protests and even calls to exit or close down ICs, often by reference to their lack of democratic accountability or insufficient respect for diversity: African states are concerned about the International Criminal Court (ICC), the UK Brexit from the EU is partly due to the Court of Justice of the European Union (CJEU), and several countries discuss leaving the European Court of Human Rights (ECtHR) or the Inter-American Court of Human Rights (IACtHR).

What are the legitimate present and future roles of this international judiciary in the global legal order? Why and when are these international courts and tribunals legitimate authorities, whose decisions should enjoy deference by ‘compliance communities’: international, regional and domestic authorities, individuals, companies and other non-state actors?

The workshop invites critical reflection about the most salient concepts and standards of legitimacy for ICs, and a focus on the three main clusters of charges of illegitimacy:

- Criticisms concern the multi-level separation of authority to and among ICs

- the proper checks and balances on ICs’ functioning; and

- how well the ICs perform

Those topics lead to two further overarching questions: When are ICs more suitable than alternatives? What are best practices and models for improvements for each IC, duly cognizant of their differences?

For more extensive presentation of these themes, check the Research Plan of PluriCourts, [www.pluricourts.no/about/research-plan-2.0.pdf](http://www.pluricourts.no/about/research-plan-2.0.pdf)

Program – provisional

|  |  |  |
| --- | --- | --- |
|  | **Tuesday July 9, 14.00-18.30** | |
|  | 10 minutes presentation, 10 minutes comments, 10 minutes discussion - and SHORT breaks.  16.00-16.30 Coffee Break | |
|  | Andreas Follesdal | PluriCourts, Oslo | Introduction |
|  | **Conceptions of Legitimacy** | |  |
|  | Antoinette Scherz | PluriCourts, Oslo | Legitimacy of International Courts and Reasons to Comply  Prepared Comments: Lando Kirchmair |
|  | Andreas Kulick | Tübingen | Democratic Legitimacy of International Courts: The Misplaced Disregard of Form  Prepared Comments: Antoinette Scherz |
|  |  |  |  |
|  | **Multilevel separation of Authority** | |  |
|  | Dmitry Kurnosov | Copenhagen | Election-Related Disputes – A Challenge for the Legitimacy of International Courts?  Prepared Comments: Martin Vestergren |
|  | Camilla Capucio | São Paulo | Overlapping jurisdictions in international economic law  Prepared Comments: Natalia Yeti Puspita |
|  |  |  |  |
|  | **Independence and Accountability** | |  |
|  | Lando Kirchmair | Salzburg/Munich | Moving the ICJ from bilateralism to serve the community interest  Prepared Comments: Dmitry Kurnosov |
|  |  |  |  |
|  | **Performance of ICs** | |  |
|  | Martin Vestergren | PluriCourts, Oslo | International Investment Tribunals and the golden straitjacket: Why offers too good to refuse are objectionable domination  Prepared Comments: Andreas Kulick |
|  | Natalia Yeti Puspita | Jakarta | ASEAN Dispute Settlement Mechanism: An Application of the Principle of Subsidiarity in the Human Rights Protection Framework in ASEAN  Prepared Comments: Andreas Follesdal |
|  | All |  | General discussion |