

INTERNATIONAL & COMPARATIVE LAW QUARTERLY

VOLUME 67

PART 1

JANUARY 2018

ARTICLES

- Judicial Review in the EU's Common Foreign and Security Policy *Panos Koutrakos*
- The Future Enforcement of Asymmetric Jurisdiction Agreements *Louise Merrett*
- Understanding and Overcoming Challenges in Accessing the African Court on Human and Peoples' Rights *Frans Viljoen*
- Judicial Cooperation in Civil and Commercial Matters After Brexit: Which Way Forward? *Giesela Rühl*
- Sheltering Government Support to 'Green' Electricity: the European Union and the World Trade Organization *Gracia Marín Durán*
- Cedaw and the Security Council: Enhancing Women's Rights in Conflict *Catherine O'Rourke and Aisling Swaine*
- UN Human Rights Treaty Monitoring Bodies Before Domestic Courts *Machiko Kanetake*

SHORTER ARTICLES AND NOTES

- Labour Provisions in EU and US Mega-Regional Trade Agreements: Rhetoric and Reality *Billy Melo Araujo*

BOOK REVIEWS

ERRATUM

Public International Law
Private International Law
Comparative Law
Human Rights
European Law



British Institute of
International and
Comparative Law



British Institute of International and Comparative Law

The British Institute of International and Comparative Law

(BIICL) is a leading independent legal research and membership organisation with charitable status, unaffiliated to any university. It is the only body of its kind in the UK and one of very few in the world. It is not publicly or privately funded by any one government, institution or person. Established in 1958 and based in London with a dedicated team of staff, it brings together legal practitioners in private and public practice, in-house counsel, scholars and students, as members and contributors. It has developed a strong global network in international and comparative law and the rule of law.

BIICL undertakes five key activities: **applied legal research, events, capacity-building training, publications and membership services.** We conduct research around the world across the broad range of public international law, private international law, comparative law, competition law, European law and international investment law and the rule of law. Our focus is on applied research, based on strong conceptual foundations, which is practical, offers examples of good practice, and recommendations for policy and legal actions. Our activities often cross the traditional boundaries of law, so as to engage with contemporary national, regional and international issues, and we consistently have an impact on law and policy worldwide.

BIICL has created **a diverse community** of scholars and practitioners and serves as an unrivalled focal point for our substantial membership base. BIICL members include judges, practising lawyers, government officials, regulators, international civil servants, academics and students. We keep our members abreast of the latest developments in international and comparative law.

Within BIICL, the **Bingham Centre for the Rule of Law** is devoted to the study and promotion of the rule of law worldwide. Launched in 2010, the Centre has established a broad base of work internationally that highlights threats to the rule of law while promoting high quality studies and training.



British Institute of International and Comparative Law

The British Institute of International and Comparative Law

(BIICL) is a leading independent legal research and membership organisation with charitable status, unaffiliated to any university. It is the only body of its kind in the UK and one of very few in the world. It is not publicly or privately funded by any one government, institution or person. Established in 1958 and based in London with a dedicated team of staff, it brings together legal practitioners in private and public practice, in-house counsel, scholars and students, as members and contributors. It has developed a strong global network in international and comparative law and the rule of law.

BIICL undertakes five key activities: **applied legal research, events, capacity-building training, publications and membership services.** We conduct research around the world across the broad range of public international law, private international law, comparative law, competition law, European law and international investment law and the rule of law. Our focus is on applied research, based on strong conceptual foundations, which is practical, offers examples of good practice, and recommendations for policy and legal actions. Our activities often cross the traditional boundaries of law, so as to engage with contemporary national, regional and international issues, and we consistently have an impact on law and policy worldwide.

BIICL has created **a diverse community** of scholars and practitioners and serves as an unrivalled focal point for our substantial membership base. BIICL members include judges, practising lawyers, government officials, regulators, international civil servants, academics and students. We keep our members abreast of the latest developments in international and comparative law.

Within BIICL, the **Bingham Centre for the Rule of Law** is devoted to the study and promotion of the rule of law worldwide. Launched in 2010, the Centre has established a broad base of work internationally that highlights threats to the rule of law while promoting high quality studies and training.

INSTRUCTIONS FOR CONTRIBUTORS

The ICLQ welcomes the submission of contributions for consideration by the Board of Editors with a view to publication. All manuscripts must be submitted online via the website: <http://mc.manuscriptcentral.com/iclq>

The Board of Editors will only consider material which complies with the following:

1. The submission should be an original, unpublished work not currently under consideration for publication elsewhere. Please note that our exclusive submission policy means you cannot submit your work to another journal until you have received a decision from us. If you would like to submit to another journal, you must withdraw your article from consideration by the ICLQ.

2. The ICLQ publishes articles that deal with public international law, private international law, comparative law, human rights law and European Union law. It particularly encourages the submission of innovative and original articles whose theme or content illuminate more than one of these subject areas. Articles which do no more than rehearse familiar and well-known material, or which are concerned only with national law (other than private international law) in a non-comparative way, should not be submitted.

3. Long articles should not exceed 12,000 words (16,000 words including footnotes). Pieces of up to 6,000 words will usually be considered for the 'Shorter Articles and Notes' section. The editors will decide on the section to which all contributions, irrespective of length, are best suited should they be accepted for publication. ScholarOne will require you to enter the word count (including footnotes) when submitting your article, and to indicate if you intend it for the 'Shorter Articles and Notes' section.

4. Footnotes should be numbered consecutively throughout the article and be in the form normally used by the ICLQ. Please see the Style Guide for further information. Footnoting should not be excessive.

5. A short (50-100 words) abstract of the article should be supplied. We reserve the right to edit abstracts for length and style. Please also supply a minimum of five keywords (maximum ten) for your article to enable digital searching.

6. Authors should state their present academic or professional affiliation and indicate any professional or personal involvement in the subject matter of the article.

7. The ICLQ only accepts submissions online via the ScholarOne platform. To upload your manuscript please go to: <http://mc.manuscriptcentral.com/iclq>. Detailed instructions for submitting your manuscript online can be found at the submission website by clicking on the 'Instructions and Forms' link in the top right of the screen; and then clicking on the 'Author Submission Instructions' icon on the following page. The Editor will acknowledge receipt

of the manuscript, with a reference number, which should be quoted in all correspondence.

For the ICLQ Style Guide, please visit www.journals.cambridge.org/iclq/ifc. In all matters not included in this Guide, the ICLQ follows the OSCOLA citation system for house style; please visit www.law.ox.ac.uk for details.

SUBSCRIPTIONS

Subscriptions, orders, and enquiries should be sent to Cambridge University Press, University Printing House, Shaftesbury Road, Cambridge, CB2 8BS, UK, email: journals@cambridge.org. A subscription to the ICLQ for 2018 is £316/\$631 for a print subscription, £284/\$570 for online only and £326/\$649 for print and online. Back issues of all volumes are now available at the current cover price. For more information on the journal see <https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly>.

The views expressed in the contributions to this journal are those of their author(s) and do not necessarily reflect the views either of the board of editors of the journal or of the British Institute of International and Comparative Law (BIICL). BIICL is a registered charity and an independent research institute committed to supporting high standards of scholarship in all aspects of international and comparative law.

The ICLQ has been selected for coverage in Clarivate's products and services. The journal is indexed and abstracted in the Social Sciences Citation Index, the Journals Citation Reports/Social Sciences Edition and Current Contents/Social and Behavioural Sciences

PERMISSIONS

For all matters concerning rights and permissions please contact Cambridge University Press. For more information go to: <http://www.cambridge.org/about-us/rights-permissions>

© 2018 British Institute of International and Comparative Law

Printed in the United Kingdom by Bell and Bain Ltd, Glasgow

This journal issue has been printed on FSC-certified paper and cover board. FSC is an independent, non-governmental, not-for-profit organization established to promote the responsible management of the world's forests. Please see www.fsc.org for information.

Authors of accepted articles in International & Comparative Law Quarterly now have the option to publish on a Gold Open Access basis.

Cambridge Journals Online: For further information about this journal please go to the journal web site at www.cambridge.org/ICLQ

BIICL GOVERNANCE

President

The Rt Hon the Lord Phillips
of Worth Matravers KG PC QC

Vice Presidents

The Rt Hon the Lord Collins of
Mapesbury

The Rt Hon Sir David Edward
KCMG

Sir Christopher Greenwood
CMG QC

Director

Professor Robert McCorquodale

Board of Trustees

Chairman:

Keith Ruddock

Professor Dapo Akande

Professor John Bell

Andrea Coomber

Philip Haberman

Sir Paul Jenkins KCB QC

The Rt Hon Sir David Lloyd Jones

Sir Iain Macleod

Nigel Parr

The Rt Hon Lord Reed

Diana Wallis

Andrew Whittaker

Van Vechten Veeder QC

Advisers to the Board of Trustees

Lady Justice Arden DBE

Martin Paisner CBE

ICLQ EDITORIAL BOARD

Editors in Chief

Professor Sir Malcolm Evans KCMG,
OBE, University of Bristol

Professor Robert McCorquodale,
Director of BIICL

General Editors

Professor Ian Cram,
University of Leeds

Professor Paula Giliker,
University of Bristol

Professor Christine Gray,
University of Cambridge

Professor Dominic McGoldrick,
University of Nottingham

Dr Louise Merrett,
University of Cambridge

Dr Alex Mills,
University College London

Professor Joanne Scott,
University College London

Assistant Editor

Dr Jean-Pierre Gauci
BIICL

Book Review Editor

Professor Ian Cram,
University of Leeds



**British Institute of
International and
Comparative Law**

International and Comparative Law Quarterly

Volume 67

January 2018

Part 1

ARTICLES

- JUDICIAL REVIEW IN THE EU'S COMMON FOREIGN AND SECURITY
POLICY *Panos Koutrakos* 1
- THE FUTURE ENFORCEMENT OF ASYMMETRIC JURISDICTION AGREEMENTS
Louise Merrett 37
- UNDERSTANDING AND OVERCOMING CHALLENGES IN ACCESSING THE AFRICAN
COURT ON HUMAN AND PEOPLES' RIGHTS *Frans Viljoen* 63
- JUDICIAL COOPERATION IN CIVIL AND COMMERCIAL MATTERS AFTER BREXIT:
WHICH WAY FORWARD? *Giesela Rühl* 99
- SHELTERING GOVERNMENT SUPPORT TO 'GREEN' ELECTRICITY: THE EUROPEAN
UNION AND THE WORLD TRADE ORGANIZATION *Gracia Marín Durán* 129
- CEDAW AND THE SECURITY COUNCIL: ENHANCING WOMEN'S RIGHTS IN
CONFLICT *Catherine O'Rourke and Aisling Swaine* 167
- UN HUMAN RIGHTS TREATY MONITORING BODIES BEFORE DOMESTIC
COURTS *Machiko Kanetake* 201

SHORTER ARTICLES AND NOTES

- LABOUR PROVISIONS IN EU AND US MEGA-REGIONAL TRADE AGREEMENTS:
RHETORIC AND REALITY *Billy Melo Araujo* 233

BOOK REVIEWS

- GEORGINA FITZPATRICK, TIM MCCORMACK and NARELLE MORRIS
Australia's War Crimes Trials (Suzannah Linton) 255
- BRIAN JONES *Law and Politics of the Taiwan Sunflower and Hong Kong
Umbrella Movements* (David Mead) 257
- ERRATUM 261