

The third-party liability of international organisations: towards a 'complete remedy system' counterbalancing jurisdictional immunity Henquet, T.S.M.

## Citation

Henquet, T. S. M. (2022, June 7). The third-party liability of international organisations: towards a 'complete remedy system' counterbalancing jurisdictional immunity. Retrieved from https://hdl.handle.net/1887/3308350

Version: Publisher's Version

License: License agreement concerning inclusion of doctoral thesis in the

Institutional Repository of the University of Leiden

Downloaded from: <a href="https://hdl.handle.net/1887/3308350">https://hdl.handle.net/1887/3308350</a>

**Note:** To cite this publication please use the final published version (if applicable).

## **BIBLIOGRAPHY**

# Books

Note: condensed reference (left column) is used where source is referred to more than once.

Amerasinghe (2005)	Amerasinghe, C.F., Principles of the Institutional Law of International Organizations (2005)
Aust (2013)	Aust, A., Modern Treaty Law and Practice (2013)
Barros (2019)	Barros, A.S., Governance as Responsibility: Member States as Human Rights Protectors in International Financial Institutions (2019)
Bingham (2011)	Bingham, T.H., The Rule of Law (2011)
Blackaby et al. (2015)	Blackaby, N., et al., Redfern and Hunter on International Arbitration (2015)
	Blokker, N.M., Saving Succeeding Generations from the Scourge of War: The United Nations Security Council at 75 (2021)
Born (2014)	Born, G., International Commercial Arbitration (2014)
	Brierley, J.L., The Law of Nations (1963)
	Brownlie, I., Principles of Public International Law (2003)
Collier and Lowe (1999)	Collier, J. and Lowe, V., The Settlement of Disputes in International Law: Institutions and Procedures (1999)
	Cot, JP., International Conciliation (1972)
	Crawford, J. and Brownlie, I., <i>Brownlie's Principles of Public International Law</i> (2012)
Daly, Goriatcheva and Meighen (2014)	Daly, B.W., Goriatcheva, E., and Meighen, H.A., A Guide to the PCA Arbitration Rules (2014)
	Di Bella, L., De Toepassing van de Vereisten van Causaliteit, Relativiteit en Toerekening bij de Onrechtmatige Overheidsdaad (2014)
	Dijk, P., van, et al., Theory and Practice of the European Convention on Human Rights (2006)
Ferstman (2017)	Ferstman, C., International Organizations and the Fight for Accountability: The Remedies and Reparations Gap (2017)
	Garner, B.A., (ed.), Black's Law Dictionary (2014)
	Glavinis, P., Les Litiges Relatifs aux Contrats Passés entre Organisations Internationales et Personnes Privées (1991)
	Heukels, T., and McDonnell, A., (eds.), <i>The Action for Damages in Community Law</i> (1997)
Higgins et al. (2017)	Higgins, R., et al. Oppenheim's International Law: United Nations (2017)
Hirsch (1995)	Hirsch, M., The Responsibility of International Organizations toward Third Parties: Some Basic Principles (1995)
	Huisman, P.J., De Bevoegdhedenovereenkomst: De Overeenkomst over het Gebruik van Een Publiekrechtelijke Bevoegdheid (2012)
Jenks (1962)	Jenks, C.W., The Proper Law of International Organisations (1962)

Jenks (1961) Jenks, C.W., International Immunities (1961) Johansen (2020) Johansen, S.Ø., The Human Rights Accountability Mechanisms of International Organizations (2020) Kelsen, H., The Law of the United Nations: A Critical Analysis of Its Fundamental Problems (1950) Klabbers, J., An Introduction to International Institutional Law (2009) Kloth, M., Immunities and the Right of Access to Court under Article 6 of the European Convention on Human Rights (2010) Lawson (1999) Lawson, R.A., Het EVRM en de Europese Gemeenschappen: Bouwstenen voor een Aansprakelijkheidsregime voor het Optreden van Internationale Organisaties (1999) Lindenbergh, S.D., Schadevergoeding: Algemeen, Deel 1 (2020) Marton (1994) Marton, K., A Death in Jerusalem (1994) Muller, A.S., International Organizations and Their Host States: Aspects of Muller (1995) Their Legal Relationship (1995) Naert (2010) Naert, F., International law Aspects of the EU's Security and Defence Policy, with a Particular Focus on the Law of Armed Conflict and Human Rights (2010)Paulsson, J., The Idea Arbitration (2013) of <oxford.universitypressscholarship.com/view/10.1093/acprof:oso/97801995</p> 64163.001.0001/acprof-9780199564163> accessed 21 December 2021 Petrović, D., (ed.), 90 Years of Contribution of the Administrative Tribunal of the International Labour Organization to the Creation of International Civil Service Law (2017) Pauwelyn (2003) Pauwelyn, J., Conflict of Norms in Public International Law: How WTO Law Relates to Other Rules of International Law (2003) Reinisch (2010) Reinisch, A., (ed.), Challenging Acts of International Organizations before *National Courts* (2010) Reinisch (2000) Reinisch, A., International Organizations before National Courts (2000) Rietiker, D., 'Effectiveness and Evolution in Treaty Interpretation' (2019) <oxfordbibliographies.com/view</pre> /document/obo-9780199796953/obo-9780199796953-0188.xml> accessed 21 December 2021 Sands, Klein and Sands, P., Klein, P., and Bowett, D.W., Bowett's Law of International Bowett (2009) *Institutions* (2009) Sarooshi (2005) Sarooshi, D., International Organizations and their Exercise of Sovereign *Powers* (2005) Schermers, H.G., and Blokker, N.M., International Institutional Law: Unity Schermers and Blokker (2018) Within Diversity (2018) Schmitt (2017) Schmitt, P., Access to Justice and International Organizations: The Case of Individual Victims of Human Rights Violations (2017) Schreuer, C., The ICSID Convention: A Commentary on the Convention on Schreuer (2009) the Settlement of Investment Disputes between States and Nationals of Other

*States* (2009)

Shelton (2015) Shelton, D., Remedies in International Human Rights Law (2015)

Stahn, C., The Law and Practice of International Territorial Administration:

Versailles to Iraq and Beyond (2008)

Tamanaha (2004) Tamanaha, B.Z., On the Rule of Law: History, Politics, Theory (2004)

Taylor (2020) Taylor, P.M., A Commentary on the International Covenant on Civil and Political Rights: The UN Human Rights Committee's Monitoring of ICCPR Rights (2020)

Tladi, D., (ed.), Peremptory Norms of General International Law (Jus Cogens): Disquisitions and Disputations (2021)

Tomuschat (2014) Tomuschat, C., Human Rights: Between Idealism and Realism (2014)

Vermeer-Künzli, A., *The Protection of Individuals by Means of Diplomatic Protection: Diplomatic Protection as a Human Rights Instrument* (2007)

Virgo, G., The Principles of the Law of Restitution (2006)

Wellens (2002) Wellens, K., Remedies against International Organisations (2002)

Wouters, J., et al. (eds.), Accountability for Human Rights Violations by International Organisations (2010)

Zwanenburg (2004) Zwanenburg, M., Accountability under International Humanitarian Law for

United Nations and North Atlantic Treaty Organization Peace Support

Operations (2004)

#### Book contributions, articles and blogs

Note: condensed reference (left column) is used where source is referred to more than once.

Alebeek, R., van, and Nollkaemper, A., 'The Netherlands', in A. Reinisch (ed.), *The Privileges and Immunities of International Organizations in Domestic Courts* (2013), 179

Barnett (1986) Barnett, R., 'Foreword: Four Senses of the Public Law-Private Law Distinction' (1986), 9 *Harvard Journal of Law and Public Policy* 267

Bekker, P.H., The Legal Position of Intergovernmental Organizations: A Functional Necessity Analysis of Their Legal Status and Immunities (1994)

Van den Berg (2019) Berg, A.J., van den, 'Appeal Mechanism for ISDS Awards: Interaction with the New York and ICSID Conventions', (2019) 34 *ICSID Review* 156

Blatt (2007)

Blatt, H., 'Rechtsschutz gegen die Vereinten Nationen. Internationale Immunitäten und die Streitbeilegung nach Section 29 des Übereinkommens über die Vorrechte und Immunitäten der Vereinten Nationen', (2007) 45

Archiv des Völkerrechts 84

Blokker (2017) Blokker, N.M., 'International Organizations and Customary International Law. Is the International Law Commission Taking International Organizations

Seriously?', (2017) 14 International Organizations Law Review 1

Blokker, N.M., 'International Organizations: The Untouchables?', in N.M. Blokker and N. Schrijver (eds.), *Immunity of International Organizations* 

(2015), 1

Blokker (2015, Blokker, N.M., 'Korte Reactie Op: "Fundamentele Arbeidsrechten en 'Korte Reactie') Immuniteit", NJB 2015/1326

Blokker, N.M., 'Beyond "Dili": On the Powers and Practice of International Organizations', in G. Kreijen (ed.), *State, Sovereignty, and International Governance* (2002), 299

Blokker and Schrijver (2015) Blokker, N.M., and Schrijver, N., 'Afterwords', in N.M. Blokker and N. Schrijver (eds.), *Immunity of International Organizations* (2015), 342

Bodansky, D. and Crook, J.R., 'Introduction and Overview', (2002) 96 *American Journal of International Law* 773

Bodeau-Livinec, P., 'Les Faux-semblants de la lex specialis—l'exemple de la résolution 52/247 de l'Assemblée générale des Nations Unies sur les limitations temporelles et financières de la responsabilité de I'ONU', (2013) 46 Revue Belge de Droit International 117

Boom, W.H., van, 'Comparative Notes on Injunction and Wrongful Risk-Taking', (2010) 17 Maastricht Journal of European and Comparative Law 10

Boon, K., 'The United Nations as Good Samaritan: Immunity and Responsibility', (2016) 16 Chicago Journal of International Law 341

Boon, K., 'The Role of *Lex Specialis* in the Articles on the Responsibility of International Organizations', in M. Ragazzi (ed.), *Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie* (2013), 135

Boon and Mégret (2019)

Boon, K.E. and Mégret, F., 'New Approaches to the Accountability of International Organizations', (2019) 16 *International Organizations Law Review* 1

Van Boven (2010)

Boven, T., van, 'The United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law' (2010) <un.org/law/avl> accessed 21 December 2021

Brabandere (2015)

Brabandere, E., de, 'Belgian Courts and the Immunity of International Organizations', in N.M. Blokker and N. Schrijver (eds.), *Immunity of International Organizations* (2015), 206

Brabandere, E., de, 'Human Rights Accountability of International Administrations: Theory and Practice in East Timor', in J. Wouters et al. (eds.), *Accountability for Human Rights Violations by International Organisations* (2010), 331

Brabandere (2010)

Brabandere, E., de, 'Immunity of International Organizations in Post-Conflict International Administrations', (2010) 7 International Organizations Law Review 79

Campbell, A.I., 'The Limits of the Powers of International Organisations', (1983) 32 *International and Comparative Law Quarterly* 523

Caron, D.D., 'The ILC Articles on State Responsibility: The Paradoxical Relationship Between Form and Authority', (2002) 96 *American Journal of International Law* 857

Charlesworth, H., 'Customary International Law and the Nicaragua Case', (1991) 11 Australian Yearbook of International Law 1

Charris Benedetti, J.P., 'The Proposed Investment Court System: Does it Really Solve the Problems?', (2019) *Revista Derecho Del Estado* 83

Chébti, M., 'Rechterlijke Toetsing aan een Ieder Verbindende Internationale Verdragsbepalingen. De Bijdrage van de Nederlandse Rechter aan het

Bevorderen van de Internationale Rechtsorde en de Noodzaak dit te Kunnen Blijven Doen', in T. Gerverdinck et al. (eds.), Wetenschappelijk Bijdragen: Bundel ter Gelegenheid van het 35-Jarig Bestaan van het Wetenschappelijk Bureau van de Hoge Raad der Nederlanden (2014), 83

Chiussi, L., 'Remarks on the ILC Work on the Identification of Customary Law and Human Rights: Curbing "Droit de L'hommisme"?', (2018) 27 *Italian Yearbook of International Law* 163

Crawford (2002)

Crawford, J., 'The ILC's Articles on Responsibility of States for Internationally Wrongful Acts: A Retrospect', (2002) 96 *American Journal of International Law* 874

Dannenbaum, T., 'A Disappointing End of the Road for the Mothers of Srebrenica Litigation in the Netherlands' (*EJIL: Talk!*, 2019) < ejiltalk.org/adisappointing-end-of-the-road-for-the-mothers-of-srebrenica-litigation-in-the-netherlands/> accessed 21 December 2021

Daugirdas and Schuricht (2021) Daugirdas, K. and Schuricht, S., 'Breaking the Silence: Why International Organizations Should Acknowledge Customary International Law Obligations to Provide Effective Remedies', in P. Quayle (ed.), *The Role of International Administrative Law at International Organizations* (2021), 54

David (2014, 'The expanding Right')

David, V., 'The Expanding Right to an Effective Remedy: Common Developments at the Human Rights Committee and the Inter-American Court', (2014) 3 *British Journal of American Legal Studies* 259

Dekker, G.R., den, 'Immuniteit van Jurisdictie en Verplichte Ambtshalve Toetsing—een Eerste Verkenning', O&A 2018/5

Dekker, G.R., den, 'Absolute Validity, Absolute Immunity: Is There Something Wrong with Article 103 of the UN Charter?', in C. Ryngaert and others (eds.), *What's Wrong with International Law? Liber Amicorum A.H.A. Soons* (2015), 247

Dekker, I., and Ryngaert, C., 'Immunity of International Organisations: Balancing the Organisation's Functional Autonomy and the Fundamental Rights of Individuals', in A.A.H. van Hoek and Nederlandse Vereniging voor Internationaal Recht, *Making Choices in Public and Private International Immunity Law* (2011), 83

Delaume (1984)

Delaume, G.R., 'ICSID Arbitration in Practice', (1984) 2 *International Tax & Business Lawyer* 58

Delaume (1983)

Delaume, G.R., 'ICSID Arbitration and the Courts', (1983) 77 American Journal of International Law 784

Fassbender, B., 'What's in a Name? The International Rule of Law and the United Nations Charter', (2018) 17 *Chinese Journal of International Law* 761

Fassbender (2006)

Fassbender, B., 'A Study Commissioned by the UN Office of Legal Affairs and Follow-up Action by the United Nations', (2006) 3 *International Organizations Law Review* 437

Fernández-Armesto (2011)

Fernández-Armesto, J., 'Different Systems for the Annulment of Investment Awards', (2011) 26 ICSID Review 128

Ferstman (2019)

Ferstman, C., 'Reparations for Mass Torts Involving the United Nations: Misguided Exceptionalism in Peacekeeping Operations', (2019) 16 International Organizations Law Review 42

Freedman, R., 'UN Immunity or Impunity? A Human Rights Based Challenge' (2014) 25 European Journal of International Law 239

Gaillard and Pingel-Lenuzza (2002) Gaillard, E. and Pingel-Lenuzza, I., 'International Organisations and Immunity from Jurisdiction: To Restrict or to Bypass', (2002) 51 *International and Comparative Law Quarterly* 1

Goldberg, J.C., 'The Conceptions of Tort Damages: Fair v. Full Compensation', (2006) 55 De Paul Law Review 435

Gómez, M.A., 'Decision-Making by Panel of Arbitrators', in I. Bantekas and others (eds.), *UNCITRAL Model Law on International Commercial Arbitration: A Commentary* (2020), 759

Gray (1996)

Gray, C., 'Host-State Consent and United Nations Peacekeeping in Yugoslavia', (1996) 7 Duke Journal of Comparative & International Law 241

Hammarskjöld (1936)

Hammarskjöld, Å., 'Les Immunités des Personnes Investies de Fonctions Internationales', (1936) 56 Recueil des Cours de l'Académie de Droit International 107

Harpignies (1971)

Harpignies, R., 'Settlement of Disputes of a Private Law Character to Which the United Nations Is a Party—A Case in Point: The Arbitral Award of 24 September 1969 in Re Starways Ltd. v. the United Nations', (1971) 7 Revue Belge de Droit International 451

Hayashi (2010)

Hayashi, N., 'Requirements of Military Necessity in International Humanitarian Law and International Criminal Law', (2010) 28 Boston University International Law Journal 39

Henquet, T., 'The Jurisdictional Immunity of International Organizations in the Netherlands and the View from Strasbourg', in N.M. Blokker and N. Schrijver (eds.), *Immunity of International Organizations* (2015), 279

Henquet, T., 'The Supreme Court of the Netherlands: Mothers of Srebrenica Association et al. v. the Netherlands', (2012) 51 ILM 1322

Henquet (2010)

Henquet, T., 'International Organisations in the Netherlands: Immunity from the Jurisdiction of the Dutch Courts', (2010) 57 *Netherlands International Law Review* 267

Horwitz, M.J., 'The History of the Public/Private Distinction', (1982) 130 *University of Pennsylvania Law Review* 1423

International Law Association, 'Berlin Conference (2004). Accountability of International Organisations. Final Report', (2004) 1 International Organizations Law Review 221

Ipp, A., 'Expedited Arbitration at the SCC: One Year with the 2017 Rules' (*Kluwer Arbitration Blog,* 2018) <a href="mailto:arbitration.com/2018/04/02/expedited-arbitration-scc-one-year-2017-rules-2/?output=pdf">accessed 12 April 2022</a>

Irmscher (2014)

Irmscher, T., 'Immunities and the Right of Access to Court: Conflict and Convergence', in D. Sarooshi (ed.), Mesures de Réparation et Responsabilité à Raison des Actes des Organisations Internationales: Remedies and Responsibility for the Actions of International Organizations (2014), 443

Issue 1: Special issue: Forum: The Accountability of International Organizations, (2019) 16 International Organizations Law Review 1

Istrefi (2010)

Istrefi, R., 'Should the United Nations Create an Independent Human Rights Body in a Transitional Administration? The Case of the United Nations Interim Administration Mission in Kosovo (UNMIK)', in J. Wouters et al.

(eds.), Accountability for Human Rights Violations by International Organisations (2010), 355

Kaufmann-Kohler and Potestà (2016)

Kaufmann-Kohler, G., and Potestà, M., 'Can the Mauritius Convention Serve as a Model for the Reform of Investor-State Arbitration in Connection with the Introduction of a Permanent Investment Tribunal or an Appeal Mechanism? Analysis and Roadmap' (Geneva Center for International Dispute Settlement, 2016) <a href="mailto:ssrn.com/abstract=3455511">ssrn.com/abstract=3455511</a>> accessed 21 December 2021

Keith, K., 'The Processes of Law-Making: the Law Relating to International Organizations as an Example', in M. Ragazzi (ed.), *Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie* (2013), 15

Kennedy, D., 'The Stages of the Decline of the Public/Private Distinction', (1982) 130 *University of Pennsylvania Law Review* 1349

Kessedjian (2020)

Kessedjian, C., et al., 'Mediation in Future Investor-State Dispute Settlement Academic Forum on ISDS' (Academic Forum on ISDS, Concept Paper 2020/16, 2020)

Kingsbury, B., Krisch, N. and Stewart, R.B., 'The Emergence of Global Administrative Law', (2005) 68 *Law and Contemporary Problems* 15

Klabbers, J., 'The Emergence of Functionalism in International Institutional Law: Colonial Inspirations', (2014) 25 European Journal of International Law 645

Klein (2016)

Klein, P., 'Responsibility', in J. Katz Cogan, I. Hurd and I. Johnstone (eds.), *The Oxford Handbook of International Organizations* (2016), 1026

Lammers, J.G., 'Immunity of International Organizations: The Work of the International Law Commission', in N.M. Blokker and N. Schrijver (eds.), *Immunity of International Organizations* (2015), 18

Lock (2010)

Lock, T., 'Beyond "Bosphorus": The European Court of Human Rights' Case Law on the Responsibility of Member States of International Organisations under the European Convention on Human Rights', (2010) 10 *Human Rights Law Review* 529

Mégret, F., 'Beyond UN Accountability for Human Rights Violations: Host State Inertia and the Neglected Potential of Sovereign Protection', (2019) 16 *International Organizations Law Review* 68

Mégret (2013)

Mégret, F., 'La Responsabilité des Nations Unies aux Temps du Choléra' (2013) <ssrn.com/abstract=2242902> accessed 21 December 2021

Mégret, F., 'Remedying UN Abuses by Forcing the Host State's Hand: Current Case Calls for the Haitian Government to Trigger a Standing Claims Commission' (*Opinio Juris*, 2013) <opiniojuris.org/2018/10/24/remedying-un-abuses-by-forcing-the-host-states-hand-current-case-calls-for-the-haitian-government-to-trigger-a-standing-claims-commission/> accessed 21 December 2021

Mégret (2003)

Mégret, F. and Hoffmann, F., 'The UN as a Human Rights Violator? Some Reflections on the United Nations Changing Human Rights Responsibilities', (2003) 25 *Human Rights Quarterly* 314

Miller (2009)

Miller, A., 'The Privileges and Immunities of the United Nations', (2009) 6 International Organizations Law Review 7

Miller (2007, 'Officials')

Miller, A., 'Privileges and Immunities of United Nations Officials', (2007) 4 *International Organizations Law Review* 169

Miller, A., 'United Nations Experts on Mission and Their Privileges and Immunities', (2007) 4 *International Organizations Law Review* 11

Nollkaemper, A. and Plakokefalos, I., 'The Practice of Shared Responsibility: A Framework for Analysis', in *The Practice of Shared Responsibility in International Law* (2017)

Nollkaemper, A., Wouters, J. and Hachez, N., 'Accountability and the Rule of Law at International Level' <<u>mzes.uni-mannheim.de/projekte/typo3/site/fileadmin/reports/report%20Accountability%20and</u> %20Rule%20of%20Law.pdf> accessed 21 December 2021

Nowicki, Chinkin and Tulkens (2017)

Nowicki, M., Chinkin, Ch. and Tulkens, F., 'Final Report of the Human Rights Advisory Panel: Executive Summary', (2017) 28 *Criminal Law Forum* 77

Okada (2018)

Okada, Y., 'Interpretation of Article VIII, Section 29 of the Convention on the Privileges and Immunities of the UN', (2018) 15 *International Organisations Law Review* 39

Ostrowski, S.T., 'Preventive Deployment of Troops as Preventive Measures: Macedonia and Beyond', (1998) 30 New York University Journal of International Law & Politics 793

Pellet (2013)

Pellet, A., 'International Organizations Are Definitely Not States. Cursory Remarks on the ILC Articles on the Responsibility of International Organizations', in M. Ragazzi (ed.), Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie (2013), 41

Pohl, J., Mashino, K., and Nohen, A., 'Dispute Settlement Provisions in International Investment Agreements: A Large Sample Survey' (OECD Working Papers on International Investment, 2012/02) <dx.doi.org/10.1787/5k8xb71nf628-en> accessed 21 December 2021

Powers, J., 'The Evolving Jurisprudence of the International Administrative Tribunals: Convergence or Divergence?', in P. Quayle and X. Gao (eds.), Good Governance and Modern International Financial Institutions: AIIB Yearbook of International Law 2018 (2019), 108

Pronto, A., 'Reflections on the Scope of Application of the Articles on the Responsibility of International Organizations', in M. Ragazzi (ed.), Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie (2013), 147

Proulx, V-J., 'An Uneasy Transition? Linkages between the Law of State Responsibility and the Law Governing the Responsibility of International Organizations', in M. Ragazzi (ed.), Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie (2013), 109

Reinisch (2018)

Reinisch, A., 'International Organizations and Dispute Settlement', (2018) 15 *International Organizations Law Review* 1

Reinisch, A., 'Privileges and Immunities', in J. Katz Cogan, I. Hurd and I. Johnstone (eds.), *The Oxford Handbook of International Organizations* (2017), 1048

Reinisch (2016, 'Investment Court System for CETA') Reinisch, A., 'Will the EU's Proposal Concerning an Investment Court System for CETA and TTIP Lead to Enforceable Awards?—The Limits of Modifying the ICSID Convention and the Nature of Investment Arbitration', (2016) 19 *Journal of International Economic Law* 761

Reinisch (2016, 'Introduction')

Reinisch, A., 'Introduction to the General Convention' in A. Reinisch (ed.), The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies: A Commentary (2016), 3

Reinisch (2016, 'Immunity')

Reinisch, A., 'Immunity of Property, Funds, and Assets (Article II Section 2 General Convention)', in A. Reinisch (ed.), *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies: A Commentary* (2016), 63

Reinisch (2015)

Reinisch, A., 'To What Extent Can and Should National Courts "Fill the Accountability Gap"?', in N.M. Blokker and N. Schrijver (eds.), *Immunity of International Organizations* (2015), 313

Reinisch, A., 'Securing the Accountability of International Organizations', (2001) 7 *Global Governance* 131

Reinisch, (2001, 'Developing Human Rights and Humanitarian Law Accountability') Reinisch, A., 'Developing Human Rights and Humanitarian Law Accountability of the Security Council for the Imposition of Economic Sanctions', (2001) 95 American Journal of International Law 851

Reinisch (2001, 'Governance without Accountability')

Reinisch, A., 'Governance without Accountability?', (2001) 44 German Yearbook of International Law 306

Ruscalla, G., 'Transparency in International Arbitration: Any (concrete) Need to Codify the Standard?', (2015) 3 *Groningen Journal of International Law* 1

Ryngaert, C., 'The European Court of Human Rights' Approach to the Responsibility of Member States in Connection with Acts of International Organizations', (2011) 60 *International and Comparative Law Quarterly* 997

Ryngaert, C., 'The Immunity of International Organizations Before Domestic Courts: Recent Trends', (2010) 7 *International Organizations Law Review* 121

Ryngaert, C. and Pennings, F., 'Korte Respons Op de Reactie van Niels Blokker', NJB 2015/1327

Ryngaert, C. and Pennings, F., 'Fundamentele Arbeidsrechten en Immuniteit', NJB 2015/859

Sarooshi, D., 'International Organizations: Personality, Immunities and Responsibility', in D. Sarooshi (ed.), Mesures de Réparation et Responsabilité à Raison des Actes des Organisations Internationales: Remedies and Responsibility for the Actions of International Organizations (2014)

Sattar (2010)

Sattar, S., 'National Courts and International Arbitration: A Double-Edged Sword?', (2010) 27 *Journal of International Arbitration* 51

Schimmel, D., et al., 'Transparency in Arbitration' (Practice Note, 2018) < foleyhoag.com/-/media/files/foley%20hoag/publications/articles/2018/transparency%20in%20arbitration\_practical%20law\_mar2018.ashx > accessed 21 December 2021

Schmalenbach (2016)

Schmalenbach, K., 'Dispute Settlement (Article VIII Sections 29–30 General Convention)', in A. Reinisch (ed.), *The Conventions on the Privileges and Immunities of the United Nations and its Specialized Agencies: A Commentary* (2016), 529

Schmalenbach (2006)

Schmalenbach, K., 'Third Party Liability of International Organizations', (2006) 10 *Journal of International Peacekeeping* 33

Schrijver (2015)

Schrijver, N., 'Beyond Srebrenica and Haiti: Exploring Alternative Remedies against the United Nations', in N.M. Blokker and N. Schrijver (eds.), *Immunity of International Organizations* (2015), 329

Shraga, D., 'ILC Articles on Responsibility of International Organizations: The Interplay between the Practice and the Rule (A View from the United Nations)', in M. Ragazzi (ed.), *Responsibility of International Organizations:* Essays in Memory of Sir Ian Brownlie (2013), 201

Shraga, D., 'UN Peacekeeping Operations: Applicability of International Humanitarian Law and Responsibility for Operations-Related Damage', (2000) 94 *American Journal of International Law* 406

Schreuer (2013)

Schreuer, C., 'International Centre for Settlement of Investment Disputes (ICSID) (Last updated May 2013)', in A. Peters and R. Wolfrum (eds.), *The Max Planck Encyclopedia of Public International Law* (2008) <mpepil.com/>accessed 21 December 2021

Schreuer (2009)

Schreuer, C., 'What is a Legal Dispute?', in I. Buffard and others (eds.), International Law between Universalism and Fragmentation: Festschrift in Honour of Gerhard Hafner (2009), 959

De Schutter (2010)

Schutter, O., de, 'Human Rights and the Rise of International Organisations: the Logic of Sliding Scales in the Law of International Responsibility', in J. Wouters et al. (eds.), *Accountability for Human Rights Violations by International Organisations* (2010), 51

Simma, B. and Alston, P., 'The Sources of Human Rights Law: Customs, Jus Cogens, and General Principles', (1988) 12 Australian Yearbook of International Law 82

Simma, B. and Pulkowski, D., 'Of Planets and the Universe: Self-Contained Regimes in International Law', (2006) 17 *European Journal of International Law* 483

Somers, S., 'De Drittwirkung van Grondrechten' (2012) 41 Netherlands Journal of Legal Philosophy 44

Stein (2009)

Stein, R., 'Rule of Law: What Does It Mean?', (2009) 18 Minnesota Journal of International Law 293

Szasz, P., 'The United Nations Legislates to Limit its Liability' (1987) 81 *American Journal of International Law* 739

Treichl, C., and Reinisch, A., 'Domestic Jurisdiction over International Financial Institutions for Injuries to Project-Affected Individuals', (2019) 16 *International Organizations Law Review* 105

Tzanakopoulos, A., 'Theorizing or Negotiating the Law? A Response to Devika Hovell', (2016) 110 AJIL unbound 3

**Ubilava** (2020)

Ubilava, A., 'Mandatory Investor-State Conciliation in New International Investment Treaties: Innovation and Interpretation' (*Kluwer Mediation Blog*, 2020) < <a href="mailto:mediationblog.kluwerarbitration.com/2020/09/05/mandatory-investor-state-conciliation-in-new-international-investment-treaties-innovation-and-interpretation/">mediationblog.kluwerarbitration.com/2020/09/05/mandatory-investor-state-conciliation-in-new-international-investment-treaties-innovation-and-interpretation/</a> accessed 21 December 2021

Ventura and Akande (2013)

Ventura, M. and Akande, D., 'Mothers of Srebrenica: The Obligation to Prevent Genocide and Jus Cogens – Implications for Humanitarian

Intervention' (*EJIL: Talk!* 2013) < <u>ejiltalk.org/ignoring-the-elephant-in-the-room-in-mothers-of-srebrenica-is-the-obligation-to-prevent-genocide-jus-cogens/> accessed 21 December 2021</u>

Vierdag, E.W., 'The Time of the "Conclusion" of a Multilateral Treaty: Article 30 of the Vienna Convention on the Law of Treaties and Related Provisions', (1988) 59 *British Yearbook of International Law* 75

Webb (2015)

Webb, P., 'Should the 2004 UN State Immunity Convention Serve as a Model/Starting Point for a Future UN Convention on the Immunity of International Organizations?', in N.M. Blokker and N. Schrijver (eds.), *Immunity of International Organizations* (2015), 61

Weber and Reinisch (2004)

Weber, U.A. and Reinisch, A., 'In the Shadow of Waite and Kennedy: the Jurisdictional Immunity of International Organizations, the Individual's Right of Access to the Courts and Administrative Tribunals as Alternative Means of Dispute Settlement', (2004) 1 *International Organizations Law Review* 59

Weiss (2002)

Weiss, E.B., 'Invoking State Responsibility in the Twenty-first Century', (2002) 96 American Journal of International Law 798

Wessel (2015)

Wessel, R.A., 'Immunities of the European Union', in N.M. Blokker and N. Schrijver (eds.), *Immunity of International Organizations* (2015), 137

Wet, E., de, 'The Direct Administration of Territories by the United Nations and Its Member States in the Post Cold War Era: Legal Bases and Implications for National Law', (2004) 8 Max Planck Yearbook of United Nations Law 291

Wet, E., de, and Nollkaemper, P.A., 'Review of Security Council Decisions by National Courts', (2002) 45 *German Yearbook of International Law* 166

Wilde, R., 'Representing International Territorial Administration: A Critique of Some Approaches', (2004) 15 European Journal of International Law 71

Wilde, R., 'The United Nations as Government: The Tensions of an Ambivalent Role', (2003) 97 American Society of International Law Proceedings 212

Wood (2015)

Wood, M., 'Do International Organizations Enjoy Immunity Under Customary International Law?', in N.M. Blokker and N. Schrijver (eds.), *Immunity of International Organizations* (2015), 29

Wood (2013)

Wood, M., "Weighing" the Articles on Responsibility of International Organizations', in M. Ragazzi (ed.), Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie (2013), 55

Ziegler, A., 'Article 105', in B. Simma et al. (eds.), *The Charter of the United Nations: A Commentary* (2012), at 2158

Zwanenburg (2008)

Zwanenburg, M., 'UN Peace Operations Between Independence and Accountability', (2008) 5 International Organizations Law Review 23

Zwanenburg (2006)

Zwanenburg, M., 'The Van Boven/Bassiouni Principles: An Appraisal', (2006) 24 Netherlands Quarterly of Human Rights 641

#### TABLE OF CASES

## **International jurisdictions**

#### Permanent Court of International Justice

- Factory at Chorzów, Merits, Judgment of 13 September 1928, Rep. PCIJ Series A No. 17
- Jurisdiction of the Courts of Danzig (Pecuniary Claims of Danzig Railway Officials Who Have Passed into the Polish Service, Against the Polish Railways Administration), Advisory Opinion of 3 March 1928, Rep. PCIJ Series B No. 15
- The Mavrommatis Palestine Concessions (Greece v. United Kingdom), Jurisdiction, Judgment of 30 August 1924, Rep. PCIJ Series A No. 2

### International Court of Justice

- Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening), Merits, Judgment of 3 February 2012, [2012] ICJ Rep. 99 (Jurisdictional Immunities of the State)
- Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Merits, Judgment of 26 February 2007, [2007] ICJ Rep. 43
- LaGrand Case (Germany v. United States of America), Merits, Judgment of 27 June 2001, [2001] ICJ Rep. 466
- Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, Advisory Opinion of 29 April 1999, [1999] ICJ Rep. 62 (Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights)
- *Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)*, Merits, Judgment of 25 September 1997, [1997] ICJ Rep. 7
- Legality of the Use by a State of Nuclear Weapons in Armed Conflict, Advisory Opinion of 8 July 1996, [1996] ICJ Rep. 66
- Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom), Provisional Measures, Order of 14 April 1992, [1992] ICJ Reports 3
- Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations, Advisory Opinion of 15 December 1989, [1989] ICJ Rep. 177
- Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion of 20 December 1980, [1980] ICJ Rep. 73
- United States Diplomatic and Consular Staff in Tehran, Merits, Judgment of 24 May 1980, [1980] ICJ Rep. 3
- North Sea Continental Shelf Cases (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. the Netherlands), Merits, Judgment of 20 February 1969, [1969] ICJ Rep. 3
- Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962, [1962] ICJ. Rep. 151 (Certain Expenses)
- Effect of Awards of Compensation Made by the United Nations Administrative Tribunal, Advisory Opinion of 13 July 1954, [1954] ICJ Rep. 47 (Effect of Awards)
- Reservations to the Convention on Genocide, Advisory Opinion of 28 May 1951, [1951] ICJ Rep. 15

- Interpretation of the Peace Treaties with Bulgaria, Hungary and Romania, Advisory Opinion of 30 March 1950, [1950] ICJ Rep. 65
- Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion of 11 April 1949, [1949] ICJ Rep. 174 (Reparation for Injuries)

### United Nations International Residual Mechanism for Criminal Tribunals

- The Prosecutor v. Ratko Mladić (MICT-13-56), Appeals Chamber, Judgement, 8 June 2021

## European Court of Human Rights

- Kokashvili v. Georgia, Decision of 1 December 2015, ECHR (App. no. 21110/03) (Kokashvili)
- Perez v. Germany, Decision of 6 January 2015, ECHR (App. no. 15521/08)
- Klausecker v. Germany, Decision of 6 January 2015, ECHR (App. no. 415/07) (Klausecker)
- Stichting Mothers of Srebrenica and Others v. the Netherlands, Decision of 11 June 2013, [2013] ECHR (III) (Mothers of Srebrenica)
- Chapman v. Belgium, Decision of 5 March 2013, ECHR (App. No. 39619/06) (Chapman)
- Al-Jedda v. the United Kingdom [GC], Judgment of 7 July 2011, [2011] ECHR (IV) (Al-Jedda)
- Lopez Cifuentes v. Spain, Decision of 7 July 2009, ECHR (App. no. 18754/06) (Lopez Cifuentes)
- Gasparini v. Italy and Belgium, Decision of 12 May 2009, ECHR (App. no. 10750/03) (Gasparini)
- Cooperatieve Producentenorganisatie van de Nederlandse Kokkelvisserij U.A. v. the Netherlands, Decision of 20 January 2009, [2009] ECHR (I) (Cooperatieve Producentenorganisatie van de Nederlandse Kokkelvisserij)
- Connolly v. 15 Member States of the European Union, Decision of 9 December 2008 (App. no. 73274/01) (Connolly)
- Mazéas v. France, Decision of 13 November 2008, ECHR (App. no. 11270/04) (Mazéas)
- Boivin v. 34 member States of the Council of Europe, Decision of 9 September 2008, [2008] ECHR (IV) (Boivin)
- Behrami and Behrami v. France and Saramati v. France, Germany and Norway [GC], Decision of 2 May 2007, ECHR (App. no. 71412/01; 78166/01) (Behrami and Saramati)
- Vilho Eskelinen and Others v. Finland [GC], Judgment of 19 April 2007, [2007] ECHR (II)
- Markovic and Others v. Italy [GC], Judgment of 14 December 2006, [2006] ECHR (XIV) (Markovic)
- Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland [GC], Judgment of 30 June 2005, [2005] ECHR (VI) (Bosphorus)
- A.L. v. Italy, Decision of 11 May 2000, ECHR (App. 41387/98) (A.L.)
- Beer and Regan v. Germany, Judgment of 18 February 1999, ECHR (App. no. 28934/95) (Beer and Regan)
- Waite and Kennedy v. Germany, Judgment of 18 February 1999, [1999] ECHR (I) (Waite and Kennedy)
- Osman v. the United Kingdom [GC], Judgment of 28 October 1998, [1998] ECHR (VIII) (Osman)

- Tinnelly & Sons Ltd. And Others and Mcelduff and Others v. the United Kingdom, Judgment of 10 July 1998, [1998] ECHR (IV) (Tinnelly)
- Stubbings and Others v. the United Kingdom, Judgment of 22 October 1996, [1996] ECHR (IV) (Stubbings)
- Fayed v. the United Kingdom, Judgment of 21 September 1990, ECHR (Ser. A no. 294-B) (Fayed)
- Leander v. Sweden, Judgment of 26 March 1987, ECHR (Ser. A no. 116)
- Lithgow and Others v. the United Kingdom, Judgment of 8 July 1986, ECHR (Ser. A no. 102) (Lithgow)
- Ashingdane v. the United Kingdom, Judgment of 28 May 1985, ECHR (Ser. A no. 93) (Ashingdane)
- Klass and Others v. Germany, Judgment of 6 September 1978, ECHR (Ser. A no. 28)
- König v. Germany, Judgment of 28 June 1978, ECHR (Ser. A no. 27) (König)

## European Commission of Human rights

- Spaans v. The Netherlands (1988), 58 DR 119

### **Human Rights Advisory Panel**

- *N.M. and Others v. UNMIK*, Opinion of 26 February 2016, HRAP, Case No. 26/08, 55 ILM 925 (2016)
- S.C. v. UNMIK, Opinion of 6 December 2012, HRAP, Case No. 02/09
- N.M. and Others v. UNMIK, Decision of 10 June 2012, HRAP, Case No. 26/08
- N.M. and Others v. UNMIK, Decision of 31 March 2010, HRAP, Case No. 26/08
- N.M. and Others v. UNMIK, Decision of 5 June 2009, HRAP, Case No. 26/08

### Arbitral awards

- Island of Palmas case (Netherlands v. USA), 4 April 1928, Reports of International Arbitral Awards, Vol. II (2006), 829-871

### **Domestic courts**

### The Netherlands

- Supreme Court 24 December 2021, ECLI:NL:HR:2021:1956 (Supreme)
- Court of Appeal 's-Hertogenbosch 10 December 2019, ECLI:NL:GHSHE:2019:4464 (Supreme)
- Supreme Court 19 July 2019, ECLI:NL:HR:2019:1223 (Mothers of Srebrenica, merits)
- Supreme Court (summary proceedings) 1 December 2017, ECLI:NL:HR:2017:3054, NJB 2017/2343 (*Republic Iraq and Central Bank of Iraq*)
- Court of Appeal The Hague 27 June 2017, ECLI:NL:GHDHA:2017:1761 (Mothers of Srebrenica, merits)
- Court of Appeal The Hague (summary proceedings) 7 March 2017, ECLI:NL:GHDHA:2017:445 (EPO unions II)

- District Court Limburg 8 February 2017, ECLI:NL:RBLIM:2017:1002 (Supreme)
- Supreme Court (summary proceedings) 20 January 2017, ECLI:NL:HR:2017:57 (EPO unions)
- Supreme Court 20 January 2017, ECLI:NL:HR:2017:56 (EPO disability II)
- District Court The Hague (summary proceedings) 5 August 2016, ECLI:NL:RBDHA:2016:9444 (EPO unions II)
- Supreme Court 18 December 2015, ECLI:NL:HR:2015:3609 (ESA expatriation allowance)
- Court of Appeal The Hague 2 June 2015, ECLI:NL:GHDHA:2015:1245 (EPO disability II)
- Supreme Court 20 March 2015, ECLI:NL:HR:2015:687 (IUSCT non-extension)
- Court of Appeal The Hague (summary proceedings) 17 February 2015, ECLI:NL:GHDHA:2015:255 (EPO unions)
- Supreme Court Procurator General 23 January 2015, ECLI:NL:PHR:2015:26 (*IUSCT non-extension*)
- District Court The Hague 5 November 2014, ECLI:NL:RBDHA:2014:14620 (ICTR compensation)
- District Court The Hague 16 July 2014, ECLI:NL:RBDHA:2014:8562, English translation in ECLI:NL:RBDHA:2014:8748 (Mothers of Srebrenica, merits)
- Court of Appeal The Hague 6 May 2014, ECLI:NL:GHDHA:2014:1762 (ESA expatriation allowance)
- District Court The Hague (summary proceedings) 14 January 2014, ECLI:NL:RBDHA:2014:420 (EPO unions)
- District Court The Hague (summary proceedings) 3 October 2013, ECLI:NL:RBDHA:2013:16952 (EPO)
- Court of Appeal The Hague 17 September 2013, ECLI:NL:GHDHA:2013:3938 (*IUSCT non-extension*)
- Supreme Court 6 September 2013, ECLI:NL:HR:2013:BZ9225 (*Nuhanović*)
- Supreme Court 6 September 2013, ECLI:NL:HR:2013:BZ9228 (Mustafić)
- Court of Appeal The Hague 25 September 2012, ECLI:NL:GHSGR:2012:BX8215 (*IUSCT abolition*)
- Supreme Court 13 April 2012, ECLI:NL:HR:2012:BW1999, unofficial English-language translation produced by the Dutch Ministry of Foreign Affairs (*Mothers of Srebrenica*)
- District Court The Hague 13 February 2012 (*IUSCT non-extension*)
- Supreme Court Procurator General 27 January 2012, ECLI:NL:PHR:2012:BW1999 (Mothers of Srebrenica)
- Court of Appeal The Hague 5 July 2011, ECLI:NL:GHSGR:2011:BR0133 (Nuhanović)
- Court of Appeal The Hague 5 July 2011, ECLI:NL:GHSGR:2011:BR5386, English translation provided by the Court (*Mustafić*)
- Court of Appeal The Hague (summary proceedings) 21 June 2011, ECLI:NL:GHSGR:2011:BR0188 (EPO v. Restaurant de la Tour)
- Court of Appeal The Hague 30 March 2010, ECLI:NL:GHSGR:2010:BL8979, unofficial English translation provided by the Court (*Mothers of Srebrenica*)
- Supreme Court 26 March 2010, ECLI:NL:HR:2010:BK9154 (Azeta v. Republic of Chile)
- Supreme Court 23 October 2009, ECLI:NL:HR:2009:BI9632 (EPO disability)

- Supreme Court 13 November 2007, ECLI:NL:HR:2007:BA9173, English translation on file with the present author (*Euratom*)
- Court of Appeal The Hague 28 September 2007, ECLI:NL:GHSGR:2007:BB5865 (EPO disability)
- Court of Appeal The Hague (summary proceedings) 15 March 2007, ECLI:NL:GHSGR:2007:BA2778 (*OPCW*)
- District Court The Hague (summary proceedings) 7 November 2005, cause list no. 530605/05-21363 (on file with the present author) (*Resodikromo* v. *OPCW*)
- District Court The Hague 27 June 2002, cause list no. 262987/02-3417 (on file with the present author) (*Pichon v. PCA*)
- District Court The Hague 13 February 2002, NIPR 2004, no. 268, English translation in (2004) 35 NYIL 453 (ISNAR)
- District Court The Hague 28 November 2001 (*ISNAR*), cited in District Court The Hague 13 February 2002, NIPR 2004, no. 268, English translation in (2004) 35 NYIL 453) (*ISNAR*)
- Supreme Court 25 November 1994, NJ 1995/650 (Kingdom of Morocco v. De Trappenberg)
- Supreme Court 20 December 1985, ECLI:NL:HR:1985:AC9158 NJ 1986/438, m.nt. P.J.I.M. de Waart, English translation in (1987) 18 NYIL 357 (*Spaans v. IUSCT*)
- District Court Maastricht 12 January 1984, English translation in (1985) 16 NYIL 464 (*Eckhardt v. Eurocontrol*)

## Belgium

- Manderlier v. United Nations and Belgian State, Brussels Appeals Court, Decision of 15 September 1969, United Nations Juridical Yearbook 1969, 236
- *Manderlier v. United Nations and Belgian State*, Brussels Court of First Instance, Judgment of 11 May 1966, United Nations Juridical Yearbook 1966, 283

### United States of America

- Georges v. United Nations, No. 15-455-cv (2d Cir., 18 August 2016)
- Delama Georges, et al. v. United Nations, et al., No. 13-cv-7146 (JPO) (S.D.N.Y., 9 January 2015).