

# International Law in Context

The course focuses on the foundations and key underlying principles of international law (e.g. sources, law-making, participants in the international legal system and the nature of international legal obligations). Students thus learn what international law can and cannot regulate; who has the capacity to breach international law; where an international legal obligation is derived from, when it is breached, and how responsibility for wrongdoing is allocated. The course is both practical and conceptual in nature. It considers certain practical challenges of international law and discusses how the sources of law are translated into legal obligations. In doing so, the course seeks to develop a workable theory that answers how international law is applied in practice. The course is grounded in general legal theory and draws heavily on the law of contracts, torts and public law theory. No prior knowledge of international law is required and the course is open to law students at all levels. However, those students who have never studied international law before will be expected to cover additional background reading.

## **6 November 2018 (4 hours)**

- I. The Downing of MH-17: Which Internationally Wrongful Act, Whose Responsibility?
  1. The international legal capacity and attribution
  2. Identifying the legal obligation and the wrongdoer

## **13 November 2018 (4 hours)**

- II. Self-defence against non-state actors: The case study of ISIS attacks in Europe and use of force in Syria
  1. The state-centric scheme of the law on the use of force
  2. Armed attack and strict liability

## **27 November 2018 (4 hours)**

- III. Statehood and Self-Determination in Europe
  1. The concept of the state in international law and the experience of Slovenia
  2. How was Scotland different from Catalonia, and what does this tell us about the law statehood?

## **4 December 2018 (4 hours)**

- IV. Brexit, International Law and UK's Dualism
  1. Brexit and the interaction between legal orders
  2. EU law is still international law, or is it?

## 18 December (4 hours)

- V. The Croatia/Slovenia Arbitration Agreement: Between Public and Private Law Principles
1. Where is public law in public international law?
  2. Kompetenz-Kompetenz or Article 61 VCLT?

## Seminar I: The Downing of MH-17

Background reading:

- M. Evans (ed), *International Law*, OUP, 5<sup>th</sup> edn.
  - Chapter 1
  - Chapter 4
  - Chapter 6
  - Chapter 14
- Look for the media reports on MH 17 and familiarize yourself with the main facts of the situation

Materials to be discussed:

- [ILC's Articles on the Responsibility of States for Internationally Wrongful Acts](#)
- J Vidmar, '[Some Observations on Wrongfulness, Responsibility and Defences in International Law](#)', 63 NILR (2016).
- [The Nicaragua case](#), ICJ 1986 (merits). This is a very complex case. While you should be familiar with the whole case, for the purposes of this class it is important that you understand what the ICJ said in the Nicaragua case on the concepts of attribution and effective control.
- ICTY, [Tadić case](#), IT-94-I (15 July 1999) (you should be familiar with the circumstances of this case, but for this class it is especially important that you are thoroughly familiar with the Tribunal's reasoning in paras 98-114).
- ICJ, [The Bosnian Genocide case](#), ICJ Rep 2007 (you should be familiar with the circumstances of this case, but for this class it is especially important that you are thoroughly familiar with the Court's reasoning in paras 396-407).

## Seminar II: Self-Defence against Non-State Actors

- Background reading: M. Evans, *International Law*
  - Chapter 20

Materials to be discussed:

- [The Nicaragua case](#), ICJ 1986 (merits), this is a very complex case. While you should be familiar with the whole case, for the purposes of this class it is important that you understand what the ICJ said in the Nicaragua case on the prohibition of the use of force and non-intervention

- J. Vidmar, [The Use of Force as a Plea of Necessity](#), 111 American Journal of International Law Unbound (2017) 301.
- J. Vidmar, [Excusing Illegal Use of Force: From Illegal but Legitimate to Legal Because it is Legitimate?](#), EJIL Talk, 2017
- F. Paddeu, [Excusing Humanitarian Intervention – A Reply to Jure Vidmar](#), EJIL Talk 2017

### **Seminar III: Statehood and Self-Determination in Europe**

#### Background reading

- M. Evans, *International Law*:
  - Chapter 7

#### Materials to be discussed

- J. Vidmar, '[Territorial Integrity and the Law of Statehood](#)', *GWILR*, 2012
- J. Vidmar, '[Catalonia: The Way Forward is Comparative Constitutional Rather than International Legal Argument](#)', EJIL Talk (2017).
- [Reference re Secession of Quebec, The Supreme Court of Canada](#), 1998, from paragraph 111 onwards only.
- [The Kosovo Advisory Opinion, ICJ, 2010.](#)

### **Seminar IV: Brexit, International Law and UK's Dualism**

- M. Evans, *International Law*:
  - Chapter 8
  - Chapter 13

#### Materials to be discussed

- S. Tierney, [Was the Brexit Referendum Democratic?](#), UK Constitutional Law Association Blog
- [The Miller case](#), R (on the application of Miller and another) (Respondents) v Secretary of State for Exiting the European Union (Appellant) [UK Supreme Court].
- J. Vidmar, [Brexit, Democracy, and Human Rights: The Law between Secession and Treaty Withdrawal](#), 35 Wisconsin International Law Journal (2018), 425

### **Seminar V: The Croatia/Slovenia Arbitration (Procedural Issues): Between Public and Private Law Principles**

- M. Evans, *International Law*:
  - Chapter 6
  - Chapter 18

Materials to be discussed

- Read the [Arbitration Agreement between Croatia and Slovenia](#)
- [Arbitration Between the Republic of Croatia and the Republic of Slovenia, Partial Award](#), PCA
- A Sarvarian and R Baker, Arbitration between Croatia and Slovenia: Leaks, Wiretaps, Scandal
  - Part 1: <http://www.ejiltalk.org/arbitration-between-croatia-and-slovenia-leaks-wiretaps-scandal/#more-13476>
  - Part 2: <http://www.ejiltalk.org/arbitration-between-croatia-and-slovenia-leaks-wiretaps-scandal-part-2/>

### **About the Lecturer**

*Professor Jure Vidmar is the Chair of Public International Law at Maastricht University in the Netherlands. Prior to that, he held several teaching and research positions at the University of Oxford, most recently as a Research Fellow of St John's College and member of the Oxford Law Faculty. He was a visiting fellow at Harvard Law School and taught at the universities of Amsterdam and Nottingham. Prof Vidmar is also affiliated with the Human Rights Centre at the University of Pretoria, South Africa. His books include 'Democratic Statehood in International Law: The Emergence of New States in Post-Cold War Practice' (Oxford, Hart, 2013, Runner-up for the Birks Prize for Outstanding Legal Scholarship in 2014) and 'Hierarchy in International Law: The Place of Human Rights' (Oxford, OUP, 2012, with Erika de Wet). Prof Vidmar is the editor-in-chief of the Hague Yearbook of International Law.*