

Date of the seminar:

Tuesday 25th January 2011 from 12h45 to 13h45
(sandwich included during the conference)

Location of the seminar:

Faculty of Law, Economics and Finance
BRC 2.01 (2nd floor)
148, avenue de la Faïencerie
L-2511 Luxembourg

Language:

English

Registrations:

- Free seminar
- Maximum number of registrations: 40
- **Registrations** by email:
fdef-colloques@uni.lu (Last name, first name, institution)

Information:

Tel: +352 46 66 44 6619
Contact person: Mrs Armelle Arnould

Lunchtime Seminar

**Assessing the Effectiveness
of International Courts:
Can the Unquantifiable
be Quantified?**

By Prof. Yuval Shany,
Associate Professor and the Hersch Lauterpach Chair in Public
International Law, Law Faculty, Hebrew University of Jerusalem

Assessing the Effectiveness of International Courts: Can the Unquantifiable be Quantified?

By Professor Yuval Shany

During the past twenty years we have experienced a sharp rise in the number of international courts and tribunals and a correlative expansion of their jurisdictions. This increase in power poses some difficult questions concerning the performance of international courts: Are they effective tools for international governance? Do they in fact fulfill the expectations that led to their creation? And why do some courts appear to be more effective than others?

In recent years, a growing body of legal literature has turned its attention to such questions of effectiveness in recent years. Such literature contains many important insights as to the factors which could explain increased or decreased court effectiveness. Nevertheless, the 'Achilles heel' of most publications in the field is the crude and/or intuitive definitions of 'effectiveness' that they employ, which often equate effectiveness with compliance. The lack of a clear definition of effectiveness is sometimes further compounded by general assumptions about the role of international courts in international life, which seem to transpose the role that courts play in national legal systems into the international realm. At the same time, the social sciences literature has long afforded considerable attention to methodological issues relating to the assessment of organizational effectiveness in general, and public organizational effectiveness in particular. This literature appears to provide a number of conceptual frameworks and empirical indicators that could be applied towards assessing the effectiveness of international courts and tribunals.

The presentation will briefly survey some key notions used in social sciences literature relating to the methodology for measuring the effectiveness of public organizations and discuss their possible application to international courts. I will first discuss the notion 'organizational effectiveness' and explain the choice of a goal-based definition of effectiveness as the most suitable approach for evaluating the performance of international courts. I will then survey a number of ways of classifying organizational goals and illustrate some of the difficulties and ambiguities that measuring effectiveness on the basis of goal-attainment may nonetheless entail.

Subsequently, I shall discuss - through a number of actual examples - how the methods of analysis developed in the social sciences literature could be applied to study of international courts, given the unique attributes and context for their operation, and suggest some elements that should be integrated in future research projects seeking to develop a suitable research methodology. Arguably, a goal-based approach could offer us, among other things, a new perspective to understanding key features and attributes of international adjudication, such as judicial legitimacy, judgment compliance and judicial independence.

Prof. Yuval Shany's short biography

Prof. Yuval Shany is the Hersch Lauterpacht Chair in International Law at the Law Faculty of the Hebrew University of Jerusalem. He also serves currently as a director of the International Law Forum at the Hebrew University and the Project on International Courts and Tribunals (PICT) ; as a member of the steering committee of the DOMAC project (assessing the impact of international courts on domestic criminal procedures in mass atrocity cases) ; and as a senior research fellow at the Israel Democracy Institute.

Shany has degrees in law from the Hebrew University (LL.B, 1995 cum laude), New York University (LL.M., 1997) and the University of London (Ph.D., 2001) and has published a large number of books and articles on international courts and arbitration tribunals, and other international law issues such as international human rights and international humanitarian law. The latest book he co-authored 'The Manual on International Courts and Tribunals' was published last year by OUP.

Shany has been in recent years a research fellow in Harvard and Amsterdam University, and a visiting professor at the Georgetown University Law Center, Michigan University Law School, Columbia University Law School and the Faculty of Law of the University of Sydney.