

Function, Autonomy, or Mere Legal Instruments? Revisiting the Paradigm of International Organizations Through the Lens of the ILC's Recent Work¹

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Abstract

Traditional functionalist approaches in international law tend to define international organizations as state-created entities with narrowly defined mandates, acting at the behest of member states. This paper argues that such views no longer accurately reflect the legal and operational realities of contemporary international organizations, which increasingly exercise autonomous decision-making and engage in complex normative and operational activities. Building on recent developments, in particular the International Law Commission's (ILC) work on the settlement of disputes involving international organizations, this paper reviews doctrinal and theoretical definitions that portray these entities as derivative actors. Methodologically, it combines doctrinal analysis with an empirical examination of hybrid and atypical organizations to explore whether a reframed definition based on autonomy and functional authority would better capture institutional practice. The analysis underscores the diversity of institutional models, suggesting that redefining international organizations in functional terms may enhance alignment on such issues as immunity, accountability and access to justice. It concludes that further research is needed to clarify these boundaries and their implications for accountability in international institutional law. Ultimately, the paper aims to contribute to the dialogue on institutional accountability and encourage reflection on how definitional precision may reduce fragmentation and strengthen accountability within international law.

Keywords: definition of 'international organization,' International Law Commission, autonomy and functional authority.

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1. Introduction

The concept of ‘international organization’ holds a fundamental yet nebulous position within international law.³ Traditionally viewed through a mostly functionalist lens, international organizations have been understood primarily as treaty-based entities established by states to perform limited collective functions.⁴ This often casts them as ‘derivative actors’ - secondary subjects of international law whose authority and actions stem entirely from state consent.⁵ Yet the evolution of both international organizations and global governance increasingly reveals the inadequacy of this paradigm.

This paper argues that doctrinal definitions grounded in treaty law, judicial decisions, and institutional practice based on functionalist or formalist conceptions fail to accurately capture the full legal and institutional complexity of modern international organizations. It questions whether the definition of ‘international organization’ should be redefined beyond the traditional formal criteria to better reflect both the autonomy⁶ and functional authority⁷ of these entities. In doing so, it complements recent critiques of the ILC’s definitional approach and assessments of its dispute settlement project by proposing for discussion a reconstructed definition. Accurately defining international organizations is not a matter of semantics: it determines how immunity, responsibility, and access to justice operate under international law.

In terms of methodology, the paper outlines the evolution of the term ‘international organization’ by examining both functionalist and constitutionalist theories, along with the recent practices of the ILC. The analysis is structured into seven parts. Following the introduction in Section 1, Section 2 briefly explores the development of the concept of ‘international organization’ within legal doctrine and the jurisprudence of international adjudicatory bodies. Section 3 discusses how this concept is reflected in the ILC’s *Articles on the Responsibility of International Organizations* (ARIO)⁸ and its recent work on dispute settlement.⁹ Section 4 analyses the

³ For a recent commentary see August Reinisch “Do We Know What We Love When We Say That We Love International Organizations?” *International Organizations Law Review* 21, no. 3 (2024): 432–439.

⁴ See Jan Klabbers, “Beyond Functionalism: International Organizations Law in Context,” in *The Cambridge Companion to International Organizations Law*, Jan Klabbers ed. (Cambridge: Cambridge University Press, 2022), 7–24.

⁵ Felice Morgenstern in her monograph *Legal Problems of International Organizations*, first published in 1986 and reissued in 2024 with a forward by Jan Klabbers, likened the status of international organizations to that of women under national law (concluding remarks at 140).

⁶ For the purposes of this paper, ‘autonomy’ is understood primarily to mean self-governance; for a more detailed discussion, see *infra* Section 5.1.

⁷ Defined here as the independent capacity of organizations to take binding normative or administrative decisions within the scope of their mandates, without requiring prior approval from member states. This concept contrasts with traditional functionalism by highlighting the legal and institutional autonomy these entities may exercise in practice; see *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, 11 April 1949, ICJ Reports 1949, 174; Jan Klabbers, “The Life and Times of the Law of International Organizations,” *Nordic Journal of International Law* 70 (2001): 287–317.

⁸ Adopted on second reading by the ILC at its sixty-third session in 2011, *Report of the ILC on its Sixty Third Session 2011* (UN Doc. A/66/10).

⁹ ILC ‘*Settlement of Disputes to which International Organizations are Parties*’; for the current status of

consequences for accountability and access to justice. Section 5 proposes a working definition of international organizations, highlighting autonomy and functional authority, while also assessing its potential benefits and challenges. Section Six applies the proposed definition empirically through two brief case studies. Finally, Section 7 concludes with reflections, noting that the proposed definition aims to serve as a preliminary framework for further discussion and research.

2. Doctrinal Evolution of the Concept of ‘International Organization’

Conceived initially as unions, conferences or associative inter-state bodies, these entities were established to coordinate common services, such as postal and telegraph communication among states.¹⁰ The Central Commission for the Navigation of the Rhine (CCNR) is widely recognized as the oldest continuously operating international organization, having been established in 1815.¹¹ Since the Second World War, the number of international organizations has significantly increased and is now estimated to be in the hundreds worldwide.¹²

Although terminology differs across scholarship and practice,¹³ this paper employs the term ‘international organization’ to denote entities composed of states and, where applicable, other international entities, thereby differentiating them from international non-governmental organizations.¹⁴ Despite the absence of a universally accepted definition, certain key characteristics are widely acknowledged. Scholars sometimes refer to the ‘traditional trinity’: establishment by treaty, creation by states, and possessing a will independent from its members (*volonté distincte*).¹⁵ While this conceptual framework provides a valuable foundation for analysing the functions and legal significance of international organizations within the broader international legal system, it no longer fully reflects their evolving institutional reality and practice. What follows is a brief contextual overview of the leading doctrinal approaches.

the project see https://legal.un.org/ilc/summaries/10_3.shtml (last accessed on 1 November 2025).

¹⁰ C. F. Amerasinghe, “International Institutional Law – A Point of View,” *International Organizations Law Review*, 5, no. 1 (2008): 144-5.

¹¹ The Congress of Vienna established the CCNR (<https://www.ccr-zkr.org/11000000-en.html>, last accessed 6 November 2025).

¹² Estimates vary partly due to variations in what is deemed to constitute an ‘international organization.’

¹³ Commonly used terms include ‘intergovernmental organization’, ‘public international organization’, ‘international governmental organization’ (IGO), although the latter appears to be more common in international relations and political science literature. Compare with the concept of ‘global organization’ as noted by A. Golia and A. Peters, “The Concept of International Organization,” in *The Cambridge Companion to International Organizations Law*, (Cambridge: Cambridge University Press, 2022), 49.

¹⁴ ‘Non-governmental organizations’ (NGOs) are organizations whose membership is composed primarily of non-states, generally established under national law, often as either foundations or associations; G. Ullrich, *The Law of the International Civil Service: Institutional Law and Practice in International Organisations*, (Duncker & Humblot, 2018), 36.

¹⁵ A. Golia and A. Peters, *op.cit.*, at 27-28.

2.1. Legal Positivism as a Core Foundation

Under traditional positivist views, eminent legal scholars such as Jellinek, Oppenheim and Anzilotti considered international organizations as mere extensions of states, whose legal existence and powers were dependent on their constitutive treaties.¹⁶ This consent-based approach resulted in international organizations being initially deemed to lack independent personality absent express conferral by states.¹⁷ It is against this backdrop that in the early twentieth century, functionalist and constitutionalist approaches emerged seeking to capture and respond to the growing autonomy and normative authority of these entities beyond the narrow confines of state consent.¹⁸

2.2. Functionalism – A Critical Response

Functionalist approaches have sought to define international organizations primarily through the purpose (functions) entrusted to these entities by member states, rather than through formal attributes of legal personality.¹⁹ Scelle's early theory of '*dédoublement fonctionnel*' conceptualized these organizations as reflections of functions performed by state organs in both the national and international arenas simultaneously.²⁰ This notion was subsequently refined by Virally, who defined international organizations as entities created by states, endowed with organs and powers, to carry out tasks that individual states could not perform alone.²¹ Amerasinghe expanded on this with a typology of powers and competences;²² in essence, functionalism represents the principal - agent model, prioritizing the relationship between the international organization and its member states.²³

2.3. Constitutionalism – New Perspectives

In contrast, constitutionalist approaches conceptualize international

¹⁶ For a more detailed overview, see S. Hall, "The Persistent Spectre: Natural Law, International Order and the Limits of Legal Positivism," *European Journal of International Law* 12, no. 2 (2001): 269–307.

¹⁷ See W. Werner, "State Consent as Foundational Myth," in *The Research Handbook on the Theory and Practice of International Lawmaking*, C. Brölmann and Y. Radi, eds., (Edward Elgar Publishing, 2016).

¹⁸ For early criticisms see R. Collins, "Classical Legal Positivism in International Law Revisited," in *International Legal Positivism in a Post-Modern World*, 1st ed, J. Kammerhofer and J. D'Aspremont, eds. (Cambridge University Press, 2014) 14-16.

¹⁹ J. Klabbers, *An Introduction to International Organizations Law*, 4th ed (Cambridge University Press, 2022); 32-36.

²⁰ For a concise overview see A. Cassese, "Remarks on Scelle's Theory of 'Role Splitting' (*Dédoublement Fonctionnel*) in International Law," *European Journal of International Law* 1 (1990): 210-231.

²¹ M. Virally, "Definition and Classification, A Legal Approach," *International Social Science Journal* vol XXIX no 1 (1977): 58-72.

²² C.F. Amerasinghe, "The Law of International Organizations," *International Organization Law Review*, 2004; citing his *Principles of the Institutional Law of International Organizations*, 2nd ed. (Cambridge University Press; 2005).

²³ J. Klabbers, "The EJIL Foreword: The Transformation of International Organizations Law," *European Journal of International Law* 26 (2015): 10.

organizations as autonomous legal orders endowed with constitutional features influenced by both national constitutional and EU law. Authors such as Peters and Kumm highlight core principles of legality,²⁴ accountability, and protection of rights, while some, such as von Bogdandy and Petersmann, stress democratic legitimacy.²⁵ Other scholars propose varying approaches, such as Gasbarri's dual legality.²⁶ These perspectives portray organizations as evolving autonomous legal entities, emphasizing their normative, rights-protective, and rule-of-law roles, rather than merely viewing them as treaty-based instruments.

While functionalism emphasizes tasks and purposes, and constitutionalist approaches highlight constitutional authority, both approaches largely reject a state-centric positivist model. Functionalist approaches are rooted in delegated powers, whereas constitutionalist are more concerned with normative reordering. However, neither (acknowledging the above oversimplification given the constraints of this paper) fully addresses the legal challenges and issues raised by these entities. Indeed, as Prof. Jan Klabbers has recently suggested, it may be necessary to draw upon other fields and disciplines for a more comprehensive approach.²⁷

3. Contributions of International Adjudicatory Bodies and the ILC in Practice

In parallel with doctrinal development, international courts and tribunals, along with the ILC, have, in practice, played a decisive role in defining the notion of an international organization.²⁸ For the purposes of this paper, the following will focus on briefly highlighting only a selection of key judgments.

3.1. International Adjudicatory Bodies

While the Permanent Court of International Justice (PCIJ) initially touched on the competence of international organizations in its early opinions of the 1920s,²⁹ it was the International Court of Justice (ICJ) in its seminal *Reparation for Injuries* (1949)

²⁴ A. Peters, "Constitutional Theories of International Organizations: Beyond the West," *Chinese Journal of International Law* 20 (2021): 649–698; M. Kumm, "A Constitutionalist Framework of Analysis," *European Journal of International Law* 15 (2004): 907–931.

²⁵ See A. von Bogdandy, "The Democratic Legitimacy of International Courts: A Conceptual Framework," *Theoretical Inquiries in Law* 14.2 (2013); E-U Petersmann, "Constitutionalism and International Organizations," *Northwestern Journal of International Law & Business*, 17, issue 1 (1997).

²⁶ L. Gasbarri, "International Organizations and the Dream of Universal Legal Systems" (conference paper no.8 /2018). *European Society of International Law (ESIL) 2018 Annual Conference (Manchester)*, available at SSRN: <https://ssrn.com/abstract=3363904>.

²⁷ J. Klabbers, "Inter-Disciplinarity and the Law of International Organizations," in *Ways of Seeing International Organisations*, N. Mansouri and D. R. Quiroga-Villamarín, eds. (Cambridge University Press, 2025).

²⁸ J. Gomula, "The International Court of Justice and Administrative Tribunals of International Organizations," *Michigan Journal of International Law* 13 no. 83 (1991): 83.

²⁹ *Summaries of Judgments, Advisory Opinions and Orders of the Permanent Court of International Justice*, (2012) UN Doc. ST/LEG/SER.F/1/Add.4.

advisory opinion that recognized for the first time the objective legal personality of international organizations independent of member states.³⁰ Its *Effect of Awards* (1954)³¹ and *Certain Expenses* (1962)³² advisory opinions further articulated the doctrines of functional necessity and implied powers.³³ The Court's more restrictive approach in its *Nuclear Weapons* (1996)³⁴ advisory opinion was subsequently softened in the *Wall* (2004)³⁵ advisory opinion.³⁶

Other international and national courts and tribunals have likewise shaped the evolving status of international organizations, as further discussed in below with reference to such cases as *Waite and Kennedy* (1999),³⁷ *Jam v. IFC* (2019),³⁸ and *Kadi* (2008).³⁹ Although these decisions underscore the growing importance of international organizations within the international legal order, the fragmented approaches to immunity adopted across jurisdictions continue to raise serious concerns regarding access to justice and accountability.⁴⁰

3.2. International Law Commission Practice

Since its establishment in 1949, the ILC has addressed a broad range of topics, ranging from international criminal law to the law of the sea, spanning both public and private international law.⁴¹ One of the primary functions of the ILC has been the codification and preparation of treaties.⁴²

Up until quite recently, the ILC paid relatively little attention to defining international organizations, generally applying the wording “*international*

³⁰ *Reparation for Injuries* (ICJ Advisory Opinion, 1949), *op. cit.*

³¹ *Effect of Awards of Compensation Made by the U.N. Administrative Tribunal*, ICJ Advisory Opinion of 13 July 1954, ICJ Reports 1954, 47.

³² *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)*, ICJ Advisory Opinion of 20 July 1962, ICJ Reports 1962, 151.

³³ On the notion of ‘functional necessity’ see N. Blokker, “International Organizations: The Untouchables?” *International Organizations Law Review* 10, no. 2 (2014): 259–75.

³⁴ *Legality of the Threat or Use of Nuclear Weapons in Armed Conflict*, ICJ Advisory Opinion of 8 July 1996, ICJ Reports 1996, 226.

³⁵ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, ICJ Advisory Opinion of 9 July 2004, ICJ Reports 2004, 136.

³⁶ On the shift in interpretation by the ICJ, see N. White, “Separate but Connected: Inter-Governmental Organizations and International Law” *International Organizations Law Review* 5, no. 1(2008): 187–8.

³⁷ *Waite and Kennedy v. Germany*, ECtHR App. No. 26083/94, ECHR 1999-I, (2000) 30 EHRR 261, Judgment of 18 February 1999.

³⁸ *Jam v. International Finance Corp.*, US Supreme Court 586 U.S. (2019).

³⁹ *Kadi and Al Barakat International Foundation v. Council and Commission*, ECJ, Joined Cases C-402/05 P and C-415/05 P, Judgment of 3 September 2008, ECR I-6351.

⁴⁰ See A. Reinisch and U. Weber, “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,” *International Organizations Law Review* 1 (2004): 59–110.

⁴¹ Article 1(1) of the ILC Statute, <https://legal.un.org/ilc/texts/instruments/english/statute/statute.pdf> (last accessed 7 November 2025).

⁴² S. Bouwhuis, “The International Law Commission's Definition of International Organizations,” *International Organizations Law Review* 9, no. 2 (2012): 451.

organization' means an intergovernmental organization,"⁴³ primarily to distinguish these from non-governmental organizations.⁴⁴ Only under the ARIO did the ILC adopt a more detailed definition under Article 2(a): "*international organization*" means an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality. International organizations may include as members, in addition to States, other entities[.]"⁴⁵ This definition differed from the one initially proposed by Special Rapporteur Gaja in his First Report, which included the capacity to undertake in its own name "*certain government functions*."⁴⁶ The version of the definition adopted in 2011 has been criticized as overly narrow and formalistic.⁴⁷

The ILC revisited the definition of international organization in its ongoing project on dispute settlement. Special Rapporteur Reinisch initially proposed a definition drawing on the ARIO, but replacing 'legal personality' with 'distinct will'.⁴⁸ Following review by the Drafting Committee, the following compromise text was adopted: "*International organization*" means an entity possessing its own international legal personality, established by a treaty or other instrument governed by international law, that may include as members, in addition to States, other entities, and has at least one organ capable of expressing a will distinct from that of its members."⁴⁹

While the current definition introduces the criterion of 'distinct will,' retaining the requirement of legal personality may create ambiguity, since, as flagged by some scholars, international legal personality is in practice a consequence of establishing an organization rather than a constitutive criterion.⁵⁰ Moreover, by referring explicitly to 'entities,' it has been noted that the definition risks blurring the distinct character of international organizations.⁵¹ The varying discussions and divergent definitions underscore the doctrinal and political challenges that hinder consensus, even for a

⁴³ See for example Art. 1(1) of the ILC Draft Articles on the Representation of States in their Relations with International Organizations of the Universal Character, 1971, Yearbook of the International Law Commission, 1971, vol. II, Part One; 284.

⁴⁴ H.G. Schermers and N. Blokker, *Introduction to Institutional Law: Unity Within Diversity*, 5th ed. (Martinus Nijhoff Publishers, 2011), 34.

⁴⁵ Report of the International Law Commission, Sixty-Third session 2011, UN Doc. A/66/10, at 54.

⁴⁶ The definition provided for under Article 2 reads: "*For the purposes of the present draft articles, the term 'international organization' refers to an organization which includes States among its members insofar as it exercises in its own capacity certain governmental functions.*" (UN Doc.A/CN.4/532 at 115).

⁴⁷ For a more detailed discussion, see: J. Klabbbers, "Responsibility as Opportunism: the Responsibility of International Organizations," in S. Besson ed., *Theories of International Responsibility Law* 5, ASIL Studies in International Legal Theory, (Cambridge University Press, 2022) 119-142.

⁴⁸ UN Doc. A/CN.4/756, at para 59. The definition proposed by the Special Rapporteur reads: "*'International organization' refers to an entity established by States and/or other entities on the basis of a treaty or other instrument governed by international law and possessing at least one organ capable of expressing a will distinct from that of its members.*"

⁴⁹ UN Doc. A/78/10, further to review by the Drafting Committee Report of 15 May 2023 (Doc A/CN.4/L.983).

⁵⁰ Indeed, as noted by Special Rapporteur Reinisch (UN Doc. A/CN.4/756, para. 52).

⁵¹ See e.g. M. Mendelson, "The Definition of "International Organization" in the International Law Commission's Current Project on the Responsibility of International Organizations," in *International Responsibility Today*, M. Ragazzi, ed. (Brill Nijhoff, 2005) 371-389.

definition meant for a specific project.

4. Consequences for Accountability and Access to Justice

As previously stated, the definition of international organizations is not merely semantic; it determines how immunity, accountability, and access to justice operate in practice under international law. It therefore has significant implications for international organizations, for member states, and for third parties affected by their actions. These consequences serve as practical tests for any proposed definition: if a definition hinders accountability or limits access to justice, it may not be regarded as adequate.

Accordingly, this section is divided into two parts. The first part examines how narrowly defined criteria affect the application of immunity and access to justice. The second part analyses how these same criteria may distort the attribution of responsibility under the ARIO and related jurisprudence. Considered together, this section seeks to bridge doctrinal theory with the practical implications of accountability and dispute settlement in the context of international institutional law.

4.1. Immunity and Access to Justice

Whether an entity enjoys immunity or may be subjected to judicial review often hinges on whether it is formally recognized as an international organization under international law. Non-governmental organizations and other hybrid entities do not possess the same standing and, consequently, the same procedural protections.⁵² Under the doctrine of functional necessity,⁵³ national courts have generally upheld the jurisdictional immunity of international organizations, even where this has resulted in restricting access to justice for individuals adversely affected by their actions.⁵⁴

The ICJ, in its *Reparation for Injuries* advisory opinion (1949),⁵⁵ first articulated the functional necessity doctrine, confirming the distinct international legal personality of the United Nations and its entitlement to immunity insofar as necessary for the fulfilment of its functions (mission). This marked a shift from the earlier notion of absolute immunity to a limited immunity justified by institutional function.⁵⁶ The doctrine was extended to officials and experts of international organizations by the Court in its *Mazilu* advisory opinion (1989), where the Court affirmed that the independent performance of functions by UN experts required protection under Article VI, Section 22 of the Convention on Privileges and Immunities of the United Nations.⁵⁷

⁵² A. Peters, "International Organizations and International Law," in *The Oxford Handbook of International Organizations*, I. Hurd, ed. (Oxford: Oxford University Press, 2016) 50-52.

⁵³ N. Blokker, "International Organizations: The Untouchables?," *op. cit.*

⁵⁴ As seen in *Waite and Kennedy v. Germany* (ECtHR, 1999), *op. cit.*

⁵⁵ *Reparation for Injuries* (ICJ Advisory Opinion, 1949), *op. cit.*

⁵⁶ See A. Reinisch, "Privileges and Immunities," in *The Oxford Handbook of International Organizations*, I. Hurd, ed. (Oxford: Oxford University Press, 2016) 1048-1068.

⁵⁷ *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United*

The principle was reaffirmed subsequently by the Dutch Supreme Court in *Mothers of Srebrenica* (2012), underscoring that functional necessity remains the cornerstone of organizational immunity.⁵⁸

The doctrine's underlying purpose is to safeguard the independence of international organizations and their officials, ensuring that they may duly perform their mission free from external (court or state) interference.⁵⁹ However, if the legal definition of an international organization is drawn too narrowly, such as by limiting it to only treaty-based entities, it may grant immunity to some organizations while excluding others from both protection and accountability. Entities falling outside such a formal definition risk being denied any procedural recourse, thereby widening existing accountability gaps.⁶⁰

In practice, the application of immunity by international and national courts has been fragmented and inconsistent, reflecting the inherent tension between the need for functional immunity and the right to an effective remedy.⁶¹ The immunity of international organizations, grounded in both treaty and customary international law, is of a specific and distinct character.⁶² Courts have played a critical role in elaborating the doctrine. The ECtHR in the seminal case *Waite and Kennedy* (1999),⁶³ introduced the 'reasonable alternative means' test to balance immunity with access to justice. In contrast, the United States Supreme Court in *Jam v. IFC* (2019) interpreted immunity under the International Organizations Immunities Act more restrictively, signaling a departure from earlier jurisprudence.⁶⁴

Recent decisions may suggest a potential recalibration. The ECtHR Grand Chamber judgment in *Semenya v. Switzerland* (2025),⁶⁵ the CJEU's ruling in *SFC Seraing* (2025)⁶⁶ and the views of the Human Rights Committee in *MLD v. Philippines* (2024)⁶⁷ appear to indicate a growing judicial willingness to scrutinize the exercise of authority by international or quasi-international entities where individual fundamental rights are at stake.

Scholars have observed that the ILC's narrow definition of international organizations may exacerbate these disparities, as entities falling outside the scope of

Nations, ICJ Advisory Opinion, I.C.J. Reports 1989, p. 177 (*Mazilu*).

⁵⁸ *Stichting Mothers of Srebrenica and others v. Netherlands and United Nations*, Final appeal judgment, Netherlands Supreme Court LJN: BW1999, ILDC 1760 (NL 2012), 13 April 2012.

⁵⁹ A. Reinisch, "Privileges and Immunities," *op. cit.*, 1048.

⁶⁰ See *infra* Section 6 for an empirical analysis.

⁶¹ For a detailed discussion, see: E. C. Okeke, "The Tension between the Jurisdictional Immunity of International Organizations and the Right of Access to Court", in *The Role of International Administrative Law at International Organizations* (Brill, 2021) 25-53.

⁶² In scholarship, the question of immunities deriving from international customary law is still the subject of debate, see e.g. A. Reinisch, "Privileges and Immunities," *supra* note 54, at 1053; see also N. Blokker, "International Organizations and Customary International Law," *International Organizations Law Review* 14, no. 1 (2017): 1-12.

⁶³ *Waite and Kennedy* (ECtHR, 1999).

⁶⁴ *Jam v. International Finance Corp.* (US SC, 2019).

⁶⁵ *Semenya v. Switzerland*, ECtHR app. no. 10934/21, Grand Chamber Judgment of 11 July 2025.

⁶⁶ *Royal Football Club Seraing SA*, Case C-600/23, CJEU Judgment, 1 August 2025.

⁶⁷ *M.L.D. v. Philippines*, HRC, Communication no. 3565/2019, 18 July 2024.

the ARIO are neither clearly accountable nor consistently protected. This could have significant implications for human rights, particularly the right to an effective remedy under Article 6(1) of the European Convention of Human Rights (ECHR)⁶⁸ and Article 14 of the International Covenant on Civil and Political Rights (ICCPR).⁶⁹ For these reasons, a definition grounded in the principles of autonomy and functional authority would more accurately encapsulate contemporary institutional practices. Such a redefinition could have the potential to restore a more equitable balance between the operational independence of these organizations and the essential need for accountability.

4.2. Responsibility and Attribution

Under the ARIO framework, responsibility for wrongful acts is generally attributed to the organs and agents of an organization. However, Article 2(a) of the ARIO provides a narrowly defined and formalistic definition of ‘international organization.’ By restricting responsibility solely to entities that possess international legal personality, this framework creates accountability gaps, particularly as responsibility is limited to such entities.⁷⁰ Consequently, this limitation may result in grey areas of non-responsibility for organizations like the Organization for Security and Cooperation in Europe (OSCE) or certain UN operations, which in practice exercise authority but remain difficult to categorize under the existing definitions.

Likewise, the boundary between state and organizational responsibility may be difficult to discern, as seen in the jurisprudence of international and national courts. For example, in *Bosphorus v. Ireland* (2005), the ECtHR introduced the principle of equivalent protection and presumption of compliance (the ‘Bosphorus presumption’) when it held that Ireland’s actions were justified when it seized an airplane.⁷¹ In contrast, in *Behrami and Saramati v. France and others* (2007),⁷² the ECtHR attributed conduct to the United Nations, thus not holding the respondent states responsible for acts committed during peacekeeping operations in Kosovo. A similar reasoning was applied

⁶⁸ European Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950, 213 UNTS 221.

⁶⁹ International Covenant on Civil and Political Rights, (adopted 16 December 1966, entered into force 23 March 1976), 999 UNTS 171.

⁷⁰ For a more detailed overview see: J. Klabbers, “Responsibility as Opportunism: The Responsibility of International Organizations”. in *Theories of International Responsibility Law*, 1st edn, S. Besson ed. (Cambridge University Press, 2022); and for a recent review see: L. Gasbarri, “Ten years spent attributing conduct to an international organization,” in *Reassessing the Articles on the Responsibility of International Organizations*, Antal Berkes, Richard Collins & Rossana Deplano. eds. (Cheltenham, UK: Edward Elgar Publishing, 2024) 17-35.

⁷¹ *Bosphorus Hava Yollari Turizm ve Ticaret AS v. Ireland*, ECtHR App. No. 45036/98, 30 June 2005. For a detailed discussion, see: T. Lock “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”, *Human Rights Review* 10, 3 (2010).

⁷² *Behrami and Behrami v. France*, ECtHR, app. no. 71412/01, and *Saramati v. France, Germany and Norway*, ECtHR, app. no. 78166/01, ECHR 2007 (Grand Chamber).

later by the Dutch Supreme Court in *Nuhanovic* (2013),⁷³ where however the Supreme Court recognized the possibility of dual attribution to the state for the actions of its peacekeeping troops while still affirming the United Nations' immunity. These cases illustrate the distinct challenges and resulting inconsistent and fragmented delineation of accountability in the context of complex, multi-stakeholder operations.

In practice, delimiting responsibility becomes particularly challenging in complex cooperation missions and specialized agency arrangements. The reliance of Article 7 of the ARIO on the notion of 'effective control' as the test for attribution often has the effect of narrowing the scope of responsibility. Consequently, in certain contexts, such as peacekeeping operations, injured parties may be left without an effective remedy.⁷⁴

A revised definition of 'international organization' based on autonomy and functional authority could enhance coherence in applying rules of responsibility and the availability of remedies. By focusing on these criteria instead of formal legal personality, the new definition would enable a more accurate allocation of responsibility, thereby aligning with the underlying objectives of the ARIO, which is to provide for the responsibility of international organizations for international wrongful acts.⁷⁵ Such an approach would also reinforce the principle that immunity and responsibility should be complementary rather than mutually exclusive.

Immunity and responsibility are inherently linked; greater immunity often results in diminished responsibility. However, the practical application of both concepts depends to a great degree on how the term 'international organization' is defined. The preceding analysis highlights the need to reframe this term to more accurately reflect institutional realities and to promote a more accountable international legal framework.

5. Towards a Reframed Definition

The analysis indicates that the definitions employed by the ILC in the ARIO and its dispute settlement project remain overly formal and do not accurately capture the diversity of contemporary institutional practice. By focusing primarily on treaty creation and legal personality as defining criteria, these definitions risk excluding entities that, in practice, may hold significant normative and operational authority. To address these limitations, the following working definition is proposed: "*An international organization is an entity established under international law, possessing a distinct will and operating through organs capable of autonomous function.*"

This revised definition builds on existing approaches yet differs from the ILC's latest formulation by not considering international legal personality as a necessary

⁷³ *The State of the Netherlands v. Hasan Nuhanović*, Supreme Court of the Netherlands, ECLI:NL:HR:2013:BZ9225 (4 November 2013).

⁷⁴ For a more detailed analysis see A. Sari, "UN Peacekeeping Operations and Article 7 ARIO: The Missing Link," *International Organizations Law Review* 9, no. 1 (2012): 77–85.

⁷⁵ See General Commentary and the commentary to Art. 1(1) of the ARIO (United Nations, *Draft Articles on the Responsibility of International Organizations, with Commentaries* (2011), UN Doc. A/66/10 (2(2) ILC Yearbook 2011)).

criterion. Instead, it focuses on two additional complementary criteria for identifying international organizations: autonomy and functional authority.

5.1. Autonomy

In this context, the term ‘autonomy’ refers to an organization’s capacity to form and express a will that differs from that of its members. It signifies institutional independence in decision-making, even when the organization’s powers are derived from states.⁷⁶ This aligns with the functional logic outlined by the ICJ in its *Reparation for Injuries* (1949) and *Certain Expenses* (1962) advisory opinions.⁷⁷ These recognize that organizations act through their own organs and may possess implied powers necessary to fulfill their objectives. Only an entity capable of autonomous intent can bear rights and obligations and, consequently, be held accountable for international wrongful acts.

The ILC’s most recent definition, adopted in the context of its dispute settlement project, introduced the requirement that an international organization must have at least one organ capable of expressing a “*will distinct from that of its members*.”⁷⁸ This analysis employs the broader concept of ‘autonomy’ or ‘autonomous will’ synonymously to encompass both the formal and the functional dimensions of institutional independence. In this sense, ‘autonomy’ denotes the capacity of an entity to form, express, and implement decisions in its own name, whether or not such capacity has been explicitly recognised as a matter of legal personality. It thus builds on and expands the ILC’s notion of ‘distinct will’ into a more functional and practice-oriented analytical criterion.

5.2. Functional Authority

In contrast, ‘functional authority’ relates to the organization’s capacity to act and influence legal or factual outcomes in the international sphere. This concept reflects the ‘functional necessity’ principle as articulated in *Mazilu* (1989)⁷⁹ and subsequently reaffirmed in *Mothers of Srebrenica* (2012)⁸⁰. Independence and immunity are granted only to the extent necessary for the performance of specific functions. By focusing on functional authority, accountability is linked to the actual exercise of power rather than mere formal personality or treaty status.⁸¹

⁷⁶ For varying modern approaches, see: J.L. Dunoff, “The Law and Politics of International Organizations,” in *The Oxford Handbook of International Organizations*, I. Hurd, ed. (Oxford: Oxford University Press, 2016) 68-71.

⁷⁷ *Reparation for Injuries* (ICJ Advisory Opinion, 1949), *supra* note 5; *Certain Expenses* (ICJ Advisory Opinion, 1962).

⁷⁸ Guideline 2 (a), Report of the ILC, 74th session (2023) UN Doc. A/78/10, 40.

⁷⁹ *Mazilu* (ICJ Advisory Opinion, 1989).

⁸⁰ *Mothers of Srebrenica* (Netherlands Supreme Court, 2012).

⁸¹ For a recent overview of accountability issues related to international organizations, see K. E. Boon and F. Mégret, “New Approaches to the Accountability of International Organizations,” *International Organizations Law Review* 16, no. 1 (2019): 1–10.

The proposed definition also requires establishment under international law, without, however, explicitly singling out states, international organizations, or other entities. This formulation thus allows for greater flexibility in how organizations may be established, whether by states, other organizations, or through mixed arrangements such as private-public partnerships, while still maintaining an objective legal framework.

5.3 Synthesis and Implications

Taken together, the concepts of autonomy and functional authority provide a more dynamic and accurate benchmark for determining when an entity should be recognized as an international organization. This dual focus better accommodates non-traditional or hybrid forms of institutionalization, such as the OSCE or the Inter-Parliamentary Union, which exercise varying degrees of public authority yet often fall outside the ILC's framework for lack of formal criteria.⁸² This new approach may also strengthen the allocation of both immunity and responsibility: entities that act autonomously and exercise functional authority would be held accountable for their actions correspondingly.

Nevertheless, there may be significant risks associated with such reframing. As reflected in ILC deliberations, states have often been reluctant to endorse broader definitions of international organizations. Moreover, there are considerable challenges and difficulties in achieving consensus on a general definition, both in practice and within legal scholarship. To evaluate whether the proposed definition more accurately reflects the institutional reality of modern entities, the section below will briefly examine two atypical organizations: the Commonwealth and the Inter-Parliamentary Union as case studies.

6. Empirical Application: Testing the Proposed Definition

The following case studies assess whether the proposed definition, which focuses on the criteria of autonomy and functional authority, more accurately captures institutional realities than the ILC's more formalistic approach. Each selected organization is atypical and falls outside the conventional definition yet they both exercise a degree of autonomous authority and possess institutional frameworks.

The analysis aims to evaluate how each entity fulfills the proposed definition's elements, namely: 1) establishment under international law, 2) possession of autonomous will, and 3) operation through organs capable of functional authority. The

⁸² The formal status of the OSCE and whether it has international legal personality continues to be the subject of much debate in legal scholarship; for a more detailed overview see: L. Simonet and H. G. Lüber, "The OSCE and Its Legal Status: Revisiting the Myth of Sisyphus" in: IFSH (ed.), *OSCE Yearbook 2016* (Baden-Baden, 2017) 277-314; N. M. Blokker and R. A. Wessel "Revisiting Questions of Organisationhood, Legal Personality and Membership in the OSCE: The Interplay Between Law, Politics and Practice," in M.S. Platise, C. Moser, A. Peters, eds., *The Legal Framework of the OSCE*. (Cambridge University Press, 2019).

analysis draws on constitutive instruments, internal procedures and documents, relevant literature and jurisprudence.

In evaluating the key criteria, autonomy is assessed according to whether the organization may form and express preferences in its own name, not merely as the aggregate of its members' wills. Institutional and behavioral indicators include the constitutive independence of organs, capacity for independent initiative, budgetary autonomy, external legal agency, and a demonstrated practice of acting independently.

With respect to functional authority, the key question to be answered is whether the entity exercises power to adopt or execute decisions that shape conduct within its mandate. Normative and operational indicators include the capacity to produce outputs with external effects, operational control, administrative decisional power, and enforcement authority.⁸³

6.1. Commonwealth Secretariat

Historically, one of the oldest political associations of states, the modern Commonwealth was established in 1949 by the London Declaration as a "voluntary association," currently numbering 56 states⁸⁴ and governed by the Commonwealth Charter.⁸⁵ The Commonwealth Secretariat was subsequently created in 1965 by agreement of the Commonwealth Heads of Government, and its legal status in the United Kingdom was confirmed 1966 by an act of the United Kingdom Parliament.⁸⁶ Although the Memorandum of Understanding explicitly provides in Article III(4) that "the Commonwealth is not a formal organization,"⁸⁷ the Secretariat functions as an international organization that is headed by a Secretary General and that is governed by a Board. Thus, while the Commonwealth of Nations itself would not ordinarily be regarded as an international organization, being a voluntary association without a treaty foundation or international legal personality, its Secretariat displays the institutional characteristics typically associated with such organizations. The Secretariat possesses a governance structure, legal capacity to contract and to appear before its own arbitral tribunal.⁸⁸ In this sense, it largely fulfils the criteria of the proposed definition based on autonomy and functional authority.

⁸³ For the purposes of the initial analysis, the indicators were applied in a simplified manner so as to arrive at a preliminary indicative finding.

⁸⁴ The Commonwealth has evolved from its origins under the British Empire and is governed not by a single treaty but by numerous declarations as well as custom; <https://thecommonwealth.org/history> (last accessed 4 November 2025).

⁸⁵ *Charter of the Commonwealth*, adopted on 19 December 2012.

⁸⁶ *Commonwealth Secretariat Act 1966*, which conferred legal personality on the Secretariat and accorded privileges and immunities to its staff.

⁸⁷ 2022 *Further Revised Agreed Memorandum of Governance Arrangements* incorporating the decisions of Commonwealth Foreign Ministers of 26 September 2019.

⁸⁸ *Statute of the Commonwealth Secretariat Arbitral Tribunal*, adopted by Commonwealth Governments on 1 July 1995 and amended by on 24 June 1999, 18 February 2004, 14 May 2005, 16 May 2007 and 28 May 2015.

6.2. Inter-Parliamentary Union

Established in 1889, the Inter-Parliamentary Union describes itself as the “global organization of national parliaments”⁸⁹ and currently comprises 183 member parliaments.⁹⁰ Headquartered in Geneva, Switzerland,⁹¹ with additional offices in Vienna and New York, the organization is led by a President who heads its governance bodies and assemblies, along with a Secretary-General responsible for managing the Secretariat.⁹² The IPU possesses a well-established institutional framework with a global agenda, thus fulfilling the first criterion. However, in terms of functional authority, its normative output is largely advisory, and its operational authority remains limited. This indicates that while the IPU demonstrates a high degree of institutional autonomy, it only partially satisfies the criterion of functional authority and thus only partially meets the proposed definition.

6.3. Preliminary Observations

The above brief analysis demonstrates how the proposed definition may be applied in practice. It also highlights the diversity of organizational forms, particularly hybrid entities such as the OSCE and the European Union, which remain debated in scholarship and are often described as *sui generis*. As the concept of ‘soft organizations’⁹³ suggests, international legal personality together with the elements of state intent and consent, continue to play a key role in determining whether an entity qualifies as an international organization. The reframing proposed here does not seek to resolve these doctrinal complexities; rather, it aims to draw attention to them, inviting further reflection and research toward a more accurate and consistent understanding of international organization in international institutional law.

While not all the test cases appear to fully satisfy the proposed indicators, the framework offers a more nuanced understanding of institutional autonomy and functional authority than traditional approaches. Further refinement of the indicators, especially in measuring *de facto* operational authority, will be required for a more comprehensive empirical evaluation. Nevertheless, this brief assessment still demonstrates the analytical value of the autonomy/functional authority approach in distinguishing among hybrid and nontypical entities.

⁸⁹ *Statutes and Rules of the Inter-Parliamentary Union*, first adopted in 1976, extensively revised in October 1983 and amended in April 2003, October 2013, March 2016, April 2017, March and October 2018, October 2019, November 2020, May 2021, March 2023 and October 2024.

⁹⁰ <https://www.ipu.org/about-us> (last accessed 4 November 2025).

⁹¹ *Agreement between the Swiss Federal Council and the Inter-Parliamentary Union concerning the Legal Status of the IPU in Switzerland*, 19 July 1971, (full text of the draft Agreement is available at: <http://archive.ipu.org/finance-e/siege.pdf>; last accessed 8 November 2025).

⁹² <https://www.ipu.org/about-ipu/structure-and-governance> (last accessed 4 November 2025).

⁹³ The term is often used to describe more informal forms of organizations, see A. Di Stasi, “About Soft International Organizations an Open Question” in R. Virzo and I. Ingravallo, *Evolutions in the Law of International Organizations. Legal Aspects of International Organizations* 54. (Brill Nijhoff, 2015) 44-69.

7. Conclusion

Taken together, existing definitions provide a useful foundation, yet they generally fail to fully address the complexities surrounding accountability, immunity, and access to justice. The varied approaches taken by legal scholarship, adjudicatory bodies, and the ILC highlight ongoing accountability gaps, particularly given the increasing number and diversity of international organizations along with their expanding autonomy and functional authority.

This paper examined the current doctrinal framework and proposed a working definition centred on autonomy and functional authority, aiming to capture institutional practice more accurately and to provide a stronger conceptual basis for accountability. Such a redefinition also carries practical implications for dispute settlement, where jurisdiction, immunity, and standing often hinge on definitional thresholds. A more dynamic conception could thus help bridge enduring gaps in accountability and remedy.

While not a definitive solution, the proposed definition emphasizing autonomy and functional authority aims to invite further reflection and discourse. More empirical research will be essential to test the feasibility of this approach across diverse and hybrid entities. Ultimately, reframing the definition of international organization around these two interrelated criteria may contribute to a more coherent and accountable international institutional order.

Bibliography

I. Doctrine

1. Amerasinghe, C.F. "International Institutional Law – A Point of View". *International Organizations Law Review* 5, no. 1 (2008).
2. Amerasinghe, C.F. "The Law of International Organizations", *International Organization Law Review*, 2004.
3. Amerasinghe, C.F. *Principles of the Institutional Law of International Organizations*. 2nd ed. (Cambridge University Press, 2005).
4. Blokker, N. "International Organizations and Customary International Law," *International Organizations Law Review* 14, no. 1 (2017).
5. Blokker, N. "International Organizations: The Untouchables?," *International Organizations Law Review* 10, no. 2 (2014): 259–75.
6. Blokker, N. and Wessel, R.A. "Revisiting Questions of Organisationhood, Legal Personality and Membership in the OSCE: The Interplay Between Law, Politics and Practice," in M.S. Platise, C. Moser, A. Peters, eds., *The Legal Framework of the OSCE* (Cambridge University Press, 2019).
7. Bogdandy, von A. "The Democratic Legitimacy of International Courts: A Conceptual Framework," *Theoretical Inquiries in Law* 14.2 (2013).
8. Boon, K. E., and Mégret, F. "New Approaches to the Accountability of International Organizations," *International Organizations Law Review* 16, no. 1 (2019): 1–10.
9. Bouwhuis, S. "The International Law Commission's Definition of International Organizations" *International Organizations Law Review* 9, no. 2 (2012): 451–65.
10. Cassese, A. "Remarks on Scelle's Theory of 'Role Splitting' (Dedoublement

- Fonctionnel) in International Law," *European Journal of International Law* 1 (1990): 210-231.
11. Collins, R. "Classical Legal Positivism in International Law Revisited" in *International Legal Positivism in a Post-Modern World*, J. Kammerhofer and J. D'Aspremont, eds. (Cambridge University Press, 2014).
12. Di Stasi, A. "About Soft International Organizations: An Open Question," in *Evolutions in the Law of International Organizations. Legal Aspects of International Organizations* 54 (Brill Nijhoff, 2015).
13. Drosses, G. "Membership in International Organizations: Paradigms of Membership Structures," in *Legal Implications of Membership and the Concept of International Organization*, R. Virzo, and I. Ingravallo. eds., (Asser Press, 2020).
14. Dunoff, J.L. "The Law and Politics of International Organizations", in *The Oxford Handbook of International Organizations*, I. Hurd, ed. (Oxford University Press, 2016) 60-88.
15. Gasbarri, L. "Ten years spent attributing conduct to an international organization". in *Reassessing the Articles on the Responsibility of International Organizations*, Antal Berkes, Richard Collins & Rossana Deplano. eds. (Edward Elgar Publishing, 2024) 17-35.
16. Gasbarri, L. "International Organizations and the Dream of Universal Legal Systems" (March 26, 2019). *European Society of International Law (ESIL) 2018 Annual Conference (Manchester)*, available at SSRN: <https://ssrn.com/abstract=3363904>.
17. Golia, A. and Peters, A. "The Concept of International Organization," in *Cambridge Companion to International Organizations Law* (Cambridge University Press, 2022).
18. Gomula, J. "The International Court of Justice and Administrative Tribunals of International Organizations," 13 *Michigan Journal of International Law* 83 (1991).
19. Hall, S. "The Persistent Spectre: Natural Law, International Order and the Limits of Legal Positivism," *European Journal of International Law* 12, no. 2 (2001): 269–307.
20. Klabbers, J. "Beyond Functionalism: International Organizations Law in Context" in the *Cambridge Companion to International Organizations Law*, J. Klabbers ed. (Cambridge University Press, 2022)7-24.
21. Klabbers, J. "Responsibility as Opportunism: The Responsibility of International Organizations," in Besson S, ed. *Theories of International Responsibility Law. ASIL Studies in International Legal Theory* (Cambridge University Press, 2022): 119-142.
22. Klabbers, J. "The EJIL Foreword: The Transformation of International Organizations Law," *European Journal of International Law* 26 (2015).
23. Klabbers, J. "The Life and Times of the Law of International Organizations," *Nordic Journal of International Law* 70 (2001): 287–317.
24. Klabbers, J. *An Introduction to International Organizations Law*, 4th ed (Cambridge University Press, 2022).
25. Kumm, M. "A Constitutionalist Framework of Analysis," *European Journal of International Law* 15 (2004), 907–931.
26. 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," 10 no. 3 *Human Rights Review* (2010).
27. Mendelson, M. "The Definition of "International Organization" in the International Law Commission's Current Project on the Responsibility of International Organizations," in *International Responsibility Today*, M. Ragazzi, ed. (Brill Nijhoff, 2005).

28. Morgenstern, F. (reissue with forward by Jan Klabbers) *Legal Problems of International Organizations*, first published in 1986, (Cambridge University Press, 2024).
29. Okeke, E.C, "The Tension between the Jurisdictional Immunity of International Organizations and the Right of Access to Court", in *The Role of International Administrative Law at International Organizations* (Brill Nijhoff, 2021) 25-53.
30. Peters, A. "Constitutional Theories of International Organisations," *Chinese Journal of International Law* 20 (2021), 649–677.
31. Peters, A. "International Organizations and International Law, in *The Oxford Handbook of International Organizations*, ed. I. Hurd, (Oxford: Oxford University Press, 2016) 33-59.
32. Petersmann, E-U. "Constitutionalism and International Organizations," *Northwestern Journal of International Law & Business*, vol 17, issue 1 (1997).
33. Reinisch, A. "Do We Know What We Love When We Say That We Love International Organizations?" *International Organizations Law Review* 21, no. 3 (2024): 432–39.
34. Reinisch, A. "Privileges and Immunities", in *The Oxford Handbook of International Organizations*, ed. I. Hurd, (Oxford University Press, 2016) 1048-1068.
35. Reinisch, A., Weber, U. "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," *International Organizations Law Review* 1 (2004): 59-110.
36. Sari, A. "UN Peacekeeping Operations and Article 7 ARIO: The Missing Link," *International Organizations Law Review* 9, no. 1 (2012): 77–85.
37. Schermers. H.G. and Blokker N. *Introduction to Institutional Law: Unity Within Diversity*, 5th ed. (Martinus Nijhoff Publishers, 2011) 40.
38. Simonet, L. and Lüber, H.G., "The OSCE and Its Legal Status: Revisiting the Myth of Sisyphus" in IFSH (ed.), *OSCE Yearbook 2016*, (Baden-Baden, 2017) 277-314.
39. Ullrich, G. *The Law of the International Civil Service: Institutional Law and Practice in International Organisations*, (Duncker & Humblot, 2018).
40. Virally, M. "Definition and Classification, A Legal Approach," *International Social Science Journal* vol XXIX no 1 (1977), 58-72.
41. Werner, W. "State Consent as Foundational Myth," in *Research Handbook on the Theory and Practice of International Lawmaking*, C. Brölmann and Y. Radi, eds. (Edward Elgar Publishing, 2016).
42. White, N. "Separate but Connected: Inter-Governmental Organizations and International Law," *International Organizations Law Review* 5, no. 1 (2008): 175–95.

II. Table of Cases

1. *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations*, ICJ Advisory Opinion, I.C.J. Reports 1989, p. 177 (Mazilu).
2. *Behrami and Behrami v. France*, ECtHR, app. no. 71412/01, and *Saramati v. France, Germany and Norway*, ECtHR, app. no. 78166/01, ECHR 2007 (Grand Chamber).
3. *Bosphorus Hava Yollari Turizm ve Ticaret AS v. Ireland*, ECtHR App. No. 45036/98, 30 June 2005.
4. *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)*, ICJ Advisory Opinion of 20 July 1962, ICJ Reports 1962, 151.

5. *Effect of Awards of Compensation Made by the U.N. Administrative Tribunal*, ICJ Advisory Opinion of 13 July 1954, ICJ Reports 1954, 47.
6. *Jam v. International Finance Corp.*, US Supreme Court 586 U.S. (2019).
7. *Kadi and Al Barakaat International Foundation v. Council and Commission*, ECJ, Joined Cases C-402/05 P and C-415/05 P, Judgment of 3 September 2008, ECR I-6351.
8. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, ICJ Advisory Opinion of 9 July 2004, ICJ Reports 2004, 136.
9. *Legality of the Threat or Use of Nuclear Weapons in Armed Conflict*, ICJ Advisory Opinion of 8 July 1996, ICJ Reports 1996, 226.
10. *M.L.D. v. Philippines*, HRC, Communication no. 3565/2019, 18 July 2024.
11. *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion, 11 April 1949, ICJ Reports 1949, 174.
12. *Royal Football Club Seraing SA*, Case C-600/23, CJEU Judgment, 1 August 2025.
13. *Semenya v. Switzerland*, ECtHR app. no. 10934/21, Grand Chamber Judgment of 11 July 2025.
14. *Stichting Mothers of Srebrenica and others v. Netherlands and United Nations*, Final appeal judgment, Netherlands Supreme Court LJN: BW1999, ILDC 1760 (NL 2012), 13 April 2012.
15. *The State of the Netherlands v. Hasan Nuhanović*, Supreme Court of the Netherlands, ECLI:NL:HR:2013:BZ9225 (4 November 2013).
16. *Waite and Kennedy v. Germany*, ECtHR App. No. 26083/94, ECHR 1999-I, (2000) 30 EHRR 261, Judgment of 18 February 1999.