

THE FINNISH YEARBOOK OF
INTERNATIONAL LAW

(1997)

THE
FINNISH YEARBOOK OF
INTERNATIONAL LAW

VOLUME VIII
(1997)



IUS GENTIUM RY.



MARTINUS NIJHOFF PUBLISHERS
THE HAGUE / BOSTON / LONDON

A C.I.P. Catalogue record for this book is available from the Library of Congress.

ISSN 0786-6453
ISBN 90-411-1130-1

Published by Kluwer Law International,
P.O. Box 85889, 2508 CN The Hague, The Netherlands.

Sold and distributed in North, Central and South America
by Kluwer Law International,
675 Massachusetts Avenue, Cambridge, MA 02139, U.S.A.

In all other countries, sold and distributed
by Kluwer Law International, Distribution Centre,
P.O. Box 322, 3300 AH Dordrecht, The Netherlands.

Cited as: VIII *FYBRIL* (1997)

Editorial communications and books for review in this Yearbook
are welcomed and may be sent to:

Editor/The Finnish Yearbook of International Law,
Ius Gentium Association,
c/o Department of International Law (P 536),
University of Helsinki,
Box 4 (Yliopistonkatu 3),
FIN-00014 University of Helsinki, Finland
Tel. (Int.) +358-9-191 22468
Telefax (Int.) +358-9-191 22152

The Ius Gentium Association, the Editors and Members of the
Editorial Committee or the Advisory Board
are not in any way responsible for the views expressed in the contributions.

Printed on acid-free paper

All Rights Reserved

© 1999 Kluwer Law International

Kluwer Law International incorporates the publishing programmes of
Graham & Trotman Ltd, Kluwer Law and Taxation Publishers,
and Martinus Nijhoff Publishers.

No part of the material protected by this copyright notice may be reproduced or
utilized in any form or by any means, electronic or mechanical,
including photocopying, recording or by any information storage and
retrieval system, without written permission from the copyright owner.

Printed in the Netherlands.

THE FINNISH YEARBOOK OF INTERNATIONAL LAW ADVISORY BOARD

Chairman:

Bengt Broms, Judge of the Iran-United States Claims Tribunal, Professor Emeritus of International and Constitutional Law, University of Helsinki, Membre de l'Institut de Droit international, Member of the Finnish Academy of Sciences

Members:

Daniel Bardonnet, Secretary-General of the Hague Academy of International Law, Professor Emeritus, University of Paris II (Assass)

Ove Bring, Former Legal Adviser to the Swedish Ministry for Foreign Affairs 1987-1993, Professor of International Law, University of Uppsala

Vladimir-Djuro Degan, Professor of International Law at the University of Rijeka, Head of the Adriatic Institute, Croatian Academy of Sciences and Arts, Zagreb, Membre de l'Institut de Droit international

Christian Dominicé, Professor Emeritus of International Law, the University of Geneva and the Graduate Institute of International Studies, Membre de l'Institut de Droit international

Sir Robert Jennings, Former Judge of the International Court of Justice, Whewell Professor of International Law, University of Cambridge, 1955-1981, Former President of the International Court of Justice; Membre de l'Institut de Droit international

Vladimír Kopal, Professor of International Law, Faculty of Law University of Pilsen, Czech Republic, Former Chief of the Outer Space Affairs Division, United Nations, Vice-President, International Institute of Space Law

Shabtai Rosenne, Professor Emeritus of International Law, Membre de l'Institut de Droit international, Ambassador of Israel (retired), Honorary Member of the American Society of International Law

Sir Ian Sinclair, KCMB, QC, Sometime Legal Advisor to H.M. Foreign and Commonwealth Office, Former Member of the International Law Commission

Hugh W.A. Thirlway, Professor of International Law, Graduate Institute of International Studies, Geneva, formerly Principal Legal Secretary of the International Court of Justice

Eero J. Manner, Former Judge of the Supreme Court of Finland, Membre de l'Institut de Droit international

Antti Suviranta, Former President of the Supreme Administrative Court of Finland

Holger Rotkirch, Ambassador, Director General for Legal Affairs, Ministry for Foreign Affairs, Finland

In Memoriam:

Manfred Lachs, Judge and Former President of the International Court of Justice

EDITORS

Editor-in-Chief

Martti Koskenniemi

Editor

Kari T. Takamaa

Associate Editor

Linda G. Augustine

Editorial Assistant

Sirkku Hirvonen

Editorial Associates

Taina Susiluoto

Ritva Saario

EDITORIAL BOARD

Martti Koskenniemi

Kari T. Takamaa

Ruth Donner

Board for Foreign Contributions

Ruth Donner
Martti Koskenniemi
Kari T. Takamaa
Linda G. Augustine

Raimo Lahti
Jan Klabbers
Matti Kauppi
Matti Palatsi

Table of Contents

I ARTICLES

Malcom Dando: The Development of International Legal Constraints on Biological Warfare in the 20th Century	1
Kari T. Takamaa: Aspects of Procedure and Jurisprudence of the Asian Development Bank Administrative Tribunal 1991-1996	70
Jan Klabbers: Some Problems Regarding the Object and Purpose of Treaties	138
Timo Koivurova: The Transnational EIA Procedure of the Espoo Convention	161
Malgosia Fitzmaurice: The Sámi People: Current Issues Facing an Indigenous People in the Nordic Region	200

II SHORTER ARTICLES, NOTES AND COMMENTS

Ruth Donner: Discontinuance of Proceedings in the International Court of Justice: Six Recent Cases	244
Pirkko Kourula: Refugee Definition and International Protection Revisited - Lectio Praecursoria	251
Petra Hagelstam: Soldiers of Fortune in Bosnia - The Casagrande Incident	259
Anna-Lena Sjölund: Criteria for Establishing an International Armed Conflict in Bosnia and Herzegovina - An Analysis of the Tadic Judgment in the International Criminal Tribunal for the Former Yugoslavia	285

Anja Lindroos: The Role of Euratom in the Non-Proliferation Regime	307
S.A. Malinin: Operation of Rules of the International Law in the Territory of Russia under the 1993 Constitution	336
Marko Wuorinen: The Cross-Retaliatioin in the WTO Dispute Settlement System: Can the European Communities Benefit from It?	340
Tuuli Junkkari: State Liability - A Tool to Narrow the Gap between the European Union and its Citizens	366
Linda A. J. Senden: Article 119, the Equal Treatment Principle and the Concepts of Direct and Indirect Discrimination in Community Sex Equality Law	385

III BOOK REVIEWS

Autonomy and Demilitarisation in International Law: The Åland Islands in a Changing Europe, Edited by Lauri Hannikainen and Frank Horn (Mathias Schulze Steinen).	401
Athanasia Spiliopoulou Åkermark, Justifications of Minority Protection in International Law (Jan Klabbers):	406
Maurizio Ragazzi, The Concept of International Obligations Erga Omnes (Jan Klabbers).	409
Jürgen Bröhmer, State Immunity and the Violation of Human Rights (Ruth Donner).	413

Social Control and Political Order - European Perspectives at the End of the Century, Edited by Roberto Bergalli and Colin Sumner (Kirsi Piispanen)	417
---	-----

IV THE LEGAL DEVELOPMENTS IN FINLAND AND STATE PRACTICE

Helena Ranta and Antti Penttilä: Finnish Forensic Expert Team in Bosnia and Hercegovina	420
--	-----

Matti Wiberg & Kirsi Piispanen: The Guards Guarded by Almost Nobody - The Political Control of the Finnish <i>Suojelupoliisi</i> [Security Police] 1945-1996	432
---	-----

Paul Van Aerschot: The Privatization of Social Services	457
--	-----

Leo Liukkonen, ed.: The Finnish Practice on International Conventions, Treaties and Agreements	473
---	-----

A. List of International Treaties, Agreements and Related Legal Instruments Governing the International Relations of Finland, Published in the Finnish Treaty Series (FTS) in 1997

B. List of International Treaties, Agreements and Related Legal Instruments Concerning Human Rights and Fundamental Freedoms to Which Finland Was a Party in 1997

C. List of International Treaties, Agreements and Related Legal Instruments Concerning Warfare and Arms to Which Finland Was a Party in 1997

Abbreviations	510
-------------------------	-----