



2023 PARIS

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### Interview with Diana Wallis

*Former vice-president of the European Parliament  
European Parliament's rapporteur for the Brussels  
I and Rome II regulations.*

**1) As a citizen of the United Kingdom and former politician, what is your take on Brexit and a potential renaissance of global cooperation and international law for the UK and beyond?**

For many legal practitioners who sat in the UK Brexit has been a shock, sweeping away years of carefully constructed private international law constructed around the Brussels regime (jurisdiction and recognition and enforcement of judgments in civil and commercial matters), and currently at least leaving UK litigants without even access to the lesser Lugano Convention. However, let's be positive! Lawyers are nothing if not creative and Brexit forces colleagues to adopt or rediscover a more internationalist approach and indeed to positively promote a greater global role for English law and jurisdiction.

Whilst EU law and the teaching of EU law may enter the doldrums, I rather suspect that interest in international law may enjoy something of a renaissance, hopefully with a new generation of young lawyers thinking in a more global fashion about the possibilities and challenges offered.

**2) What is the biggest challenge you can see the world is facing for the next 10/20 years and what should be our role as lawyers?**

Most international law issues revolve around jurisdiction; the question of which state courts and law have jurisdiction to deal with the dispute at hand. We always assume we are talking about 'state' jurisdiction, about public state courts, as being where justice is delivered. Justice has been perceived as a public good. However, we need to beware of the 'outsourcing' of justice. Global or international issues are tending to attract the construction of various Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR) systems so as to avoid issues of jurisdiction or perhaps to avoid the reach of the state.

Such constructs may seem appealing when our courts are full and small, but complex matters need fast or smart solutions. However, we need a proper



discussion about the nature of justice in an era where Facebook's panel of the great and good are able to adjudicate on issues of fundamental rights with few eyebrows being raised.

**3) You kindly accepted to be an Ambassador for the 150th anniversary of the ILA, in your opinion, what should we be doing to meet the goal we have set for ourselves "Build Tomorrow"?**

Arguably the role of international law has never been more important. As a result this cries out for political discussion, as political choices will be made about how rights are adjudicated and that needs democratic input.

I enjoyed several years of being the European Parliament's representative to The Hague Conference of Private International law. I have always thought that the Hague Conference, and indeed international law in general, would benefit from some form of parliamentary forum. This in the sense that it is not unusual for many state-based organisation like the Conference; for example the Arctic Council, the African Union and one might say the EU itself to be backed by a parliamentary body having more or less power as appropriate. In this case such a body could at least serve as a sounding board or democratic forum for discussion before Conventions are finally constructed and agreed between officials and ministers.

The times could not be more propitious than to initiate the construction of such a body. By engaging parliamentarians, the wider public itself should then be more informed as to the importance of international law. This is why I commend the choice of topic for the Inaugural Conference which will take place on 12 January 2023.

## **WHITE PAPER – FOOD/AGRICULTURE**

White paper available ([here](#))

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### 3 questions to Prof. Fabrice Riem

#### **1) Within the framework of the 'Building Tomorrow' project, it seemed necessary to devote a White Paper to Food and Agriculture because the current situation seems so worrying. What exactly is the situation?**

The situation is not worrying, it is alarming. We provide a brief overview at the beginning of the white paper so that everyone can get a clear idea of the challenges to be faced. Annual global production is sufficient to feed more than the world's population, but healthy or adequate food is out of reach for nearly 3 billion people, due to persistently high levels of poverty and unequal access to resources. No country is spared, although undernourishment and famines are more prevalent in the South, diet-related 'noncommunicable diseases' (diabetes, obesity, etc.) are exploding worldwide. In addition, a large proportion of the pressure on the world's natural resources comes from the dominant modes of agricultural production, with the consequences that we know: biodiversity is in free fall and the climate is adrift. If we add to this the fact that many farmers are struggling to make a living from their work and that subsistence farming, on which the survival of hundreds of millions of people in the world depends, is threatened by various factors, there is cause for great concern.

The future is very uncertain because the challenges to be met (economic, environmental and climatic, health and geopolitical) are so interdependent. What is certain, as the FAO states, is that 'a *status quo* approach is no longer an option'. Depending on whether or not strong policy measures are adopted and whether or not the actors in the agricultural and food systems change their practices, the possible scenarios range from the most optimistic to the most apocalyptic for all living things, human and non-human.

#### **2) Reading the first part of the White Paper, however, one can see that international law is very extensive. To what do we attribute its ineffectiveness?**

The first thing that is obvious is that agricultural and food systems evolve in an environment saturated with 'norms' and that what could be considered as an 'overload' of law has not prevented either food insecurity or the deleterious effects of agricultural and food systems on the environment and climate. While some progress has been made in the area of the justiciability of the right to food, which is enshrined in international law, it remains difficult to address a systemic problem by implementing individual rights alone. Moreover, it was clear from the interviews conducted by the White Paper's steering committee that, in a landscape made up of interconnected challenges, a law conceived 'in silos' had little chance of being effective. But the ineffectiveness of international law must also be seen in the context of the deep crisis in multilateralism, which has created a new dynamic in global governance. Soft law and informal arrangements have flourished because states have not been able to agree on substantive legal and institutional changes. The initiatives of informal bodies such as the G20 in the area of food security since the food crises of 2007–2008 attest to this, but their legitimacy is contested, especially by emerging countries. This crisis of multilateralism has led to state withdrawal, the multiplication of 'non-cooperative' solutions and an increased mistrust of the capacity of international trade to ensure food security. The opposition between the international trade approach to food security, on the one hand, and the food sovereignty approach, on the other, seems stronger than ever. One of the sticking points during the hearings was whether or not there should be a 'supportive' international framework for national policies to accompany the possibility for people to choose which food system they wish to depend on.

#### **3) In light of the research and interviews that you conducted to draft the white paper, what are the challenges that international law related to food and agriculture will have to meet?**

If there is one strong trend to be retained after the interviews we conducted, it is the need to decompartmentalize international negotiations and therefore the resulting public policies and law. The fragmentation of these negotiations (on climate, on trade in agricultural products and on food security) makes it impossible to design a concerted and coherent food security policy that takes into account climate change, the preservation of natural resources and the effects of applying the principle of free trade to agricultural products. We need to imagine an international governance that would allow us to reconcile the three pillars of sustainable development (economic, environmental and social). As agricultural products are not ordinary goods, should their trade not be part of a trade system that takes into account human rights in the governance of international trade? The WTO has been built independently of the UN in such a way that 'trade facilitation' measures can be deployed in contradiction with those necessary to 'concretize' the right to food. Should we seek to revive the spirit of a text such as the Havana Charter, signed in 1948 but never entered into force? The Charter reserved specific treatment for 'commodities' and provided for the creation of an International Trade Organization which, unlike the WTO, was attached to the UN. The effect of this attachment would have been to force this organization to take human rights into consideration in the implementation of trade liberalization.

These considerations led many of the people interviewed to question the functioning of international trade and the power of multinational companies. The crisis of multilateralism has encouraged strategies of competition between states, with the most powerful companies borrowing standards and procedures from a multitude of different systems, whose elements they

manage to combine. They even create their own 'standard' norms and thus contribute to the production of a new law, weakening the traditional monopoly of states on the international scene. These norms also constitute one of the main difficulties for the least developed countries to participate in international trade. It seems necessary to consider the need to provide international law with tools to contain the market power of these companies, to control their political influence and their normative power, and to reinforce their social and environmental responsibility.

### ***Reminder: Registration is now open***

Registration is now open for all online events and Webinars as well as the Inaugural Conference, taking place on 12 January 2023.

You may register at [here](#)

### ***Partners and Sponsors***

The Organising Committee warmly thanks all partners, sponsors and donors for their support.

The complete list is available on the ADI/ILA 2023 website.

<https://www.ilaparis2023.org/>

**The Newsletter ADI/ILA n°12 will be released in January 2023.**