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# Law in concrete: institutional architecture in Brussels and The Hague

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## ABSTRACT

One of the most iconic and concrete encounters one can have with international law is to visit its institutional buildings. This article aims to shed light on the ambivalent aspirations reflected by the architectural design of the International Criminal Court in The Hague and the European Union buildings in Brussels. It provides a sightseeing tour through the architectural landscape of these two 'legal capitals' and explores the architectural embodiment of international law's imaginaries through discussing three main issues: (1) the representation of values and needs; (2) embeddedness within the city; (3) audience expectations. It argues that the physical sites of institutional buildings and the public events that take place at these sites are not trivial to the practice of international law. These sites and the activities and interactions on their grounds (re)produce stories that affect our understanding of what international institutions are and what they mean to us. In particular in the international setting, where institutional legitimacy is not a given, the building's architecture is an important means of communication. This article explores how the architectural design invites or discourages engagement and how it facilitates an encounter between the institutions and their multiple audiences.

**KEYWORDS** International law; architecture; European Union; International Criminal Court; legal sightseeing

## 1. International law in concrete

One of the most iconic and concrete encounters one can have with international law is to visit its institutional buildings. Buildings make law physical, visible. International institutional buildings such as the Peace Palace in The Hague and the UN headquarters in New York embody international law's norms, values and histories or become iconic in and of themselves.<sup>1</sup>

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<sup>1</sup>Johan Joor and Heikelina Verrijn Stuart, *The Building of Peace: A Hundred Years of Work on Peace Through Law: The Peace Palace, 1913–2013* (Carnegie Foundation 2013); Miriam Bak McKenna 'Designing for

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In this article, we take inspiration from creative work in socio-legal studies on the relationship between architecture and courtrooms, and bring it to two prominent sites of international law: the International Criminal Court (ICC) in The Hague and the European Union (EU) district in Brussels.<sup>2</sup> Here we take from previous studies not the focus on visualizations of justice, but their attention to 'siting justice': an exploration of 'the physical architecture of justice'.<sup>3</sup> This latter approach has sometimes seen specific palaces of justice studied for their individual complexities,<sup>4</sup> while at other times the space of the trial has more generally been conceptualized as 'physical expression of our relationship with ideals of justice'.<sup>5</sup>

The architecture of the ICC, as a courthouse, can be analysed in a similar way, but is also characterized by its own particularities in light of its aim to represent and serve a *global* constituency, which brings with it an array of challenges and identity issues.<sup>6</sup> For our second site of analysis we take the EU, focusing in on two prominent buildings – one each belonging to the EU Council and the Commission. These buildings are not courthouses, but nonetheless show an engagement with the justice vocabulary similar to that of domestic courthouses and the ICC. Moreover, by comparing the two sites we aim to shed light on the shared dynamics that characterize the materialization of an international building in an internationalized city. In that sense, this article focuses on how the building *as a site* enters into 'conversation' with its visitors and city of residence, notably through its façade, rather than on its internal configurations and judicial function in a strict sense.<sup>7</sup>

Architecture can be a manifestation of institutional ideals, functions and values.<sup>8</sup> Democratic institutions foster transparency and inclusion, which can be reflected by a particular aesthetic or functional choices in their

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International Law: The Architecture of International Organisations 1922–1952' (2019, forthcoming) London Review of International Law (on file with authors).

<sup>2</sup>On the intensifying relationship between cities and global institutions see: Janne Nijman, 'The Future of the City and the International Law of the Future' in Sam Muller and others (eds), *Law of the Future and the Future of Law* (Torkel Opsahl Academic EPublisher 2011) 213.

<sup>3</sup>Allison Tait, 'What we didn't see before' (2012) 24 *Yale Journal of Law & Humanities* 3.

<sup>4</sup>E.g. Jeanne Gaakeer, Ruth Herz, Joan Kee, Linda Mulcahy, Jeremy Pilcher, Gary Watt and Carey Young, 'Carey Young's Palais de Justice' (2018) 12(2) *Law and Humanities* 278; Nicole De Silva, 'African Court on Human and People's Rights' in Jessie Hohmann and Daniel Joyce (eds.) *International Law's Objects* (OUP 2019); Thorsten Bürklin, Jutta Limbach, Hans-Jürgen Papier, Michael Wilkens, *Das Bundesverfassungsgericht in Karlsruhe: Architektur und Rechtsprechung/ The Federal Constitutional Court of Germany: Architecture and Jurisdiction* (Birkhauser Verlag AG 2004); Piyel Halder, 'In and out of court: on topographies of law and the architecture of court buildings: a study of the supreme court of the State of Israel' (1994) 7(2) *Revue internationale de semiotique juridique* 185; Jonathan Simon, Nicolas Temple, Renée Tobee (eds), *Architecture and Justice: Judicial Meanings In the Public Realm* (Routledge 2016).

<sup>5</sup>Linda Mulcahy, *Legal Architecture: Justice, Due Process and the Place of Law* (Routledge 2010).

<sup>6</sup>See for example Immi Tallgren, 'Who Are "We" in International Criminal Law? On Critics and Membership' in Christine Schwöbel (ed), *Critical Approaches to International Criminal Law: An Introduction* (Routledge 2014); Luigi Corrias and Geoffrey Gordon, 'Judging in the Name of Humanity: International Criminal Tribunals and the Representation of a Global Public' (2015) 13 *Journal of International Criminal Justice* 97.

<sup>7</sup>For an excellent discussion on architecture of courthouses and courtrooms, see Mulcahy (n 5).

<sup>8</sup>Thomas Gieryn, 'What Buildings Do' (2002) 31 *Theory and Society* 35.

architectural design.<sup>9</sup> On the other hand, buildings also conceal. Transparency can be compromised by security measures, but buildings also exclude through gates, walls, heights, moats, choice of location, or by (less physically marked) social conventions.<sup>10</sup> Simultaneously, they influence the public space around them,<sup>11</sup> even when the premises of international institutions are also very much the turf of a social and professional ingroup with its own exclusionary mechanisms.<sup>12</sup> However, as Clare Graham reminds us:

though access and control are important issues, they are not the whole of the story, and it is unfortunate that the effect has sometimes been to reduce architecture to a business of crude mechanics plus a bit of bolt-on decoration; the building's users become passive victims, propelled along fixed routes by relentless social machinery.<sup>13</sup>

Rather, engagement with the aesthetic of the building itself matters too, and not just as 'applied extras'.<sup>14</sup>

In this article we will argue that the façades of institutional buildings can function as a sort of 'business card', offering an early introduction to the building's resident institution for people who find themselves in front of it. As its business card, an institution's façade can be a canvas on which to communicate an initial message, a face on which to inscribe and present a first statement of introduction.<sup>15</sup> This function of a building as communicator of values and institutional identity is of particular importance in the international arena, where institutional legitimacy is not a given.<sup>16</sup> The ICC is said to be in a phase of 'crisis' and the EU equally has a continuing complicated relationship with its constituency. In that light, the physical appearance of an institution becomes all the more important. Denis Olette, architect and director of

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<sup>9</sup>[T]here is a prevailing sentiment that, since 1968, cultural production in its traditional sense can no longer be understood to rise spontaneously, as a matter of social course, but must now be constructed through ever more self-conscious theoretical procedures.' in Michael Hays (ed), *Architecture Theory Since 1968* (MIT Press 1998).

<sup>10</sup>Judith Resnik, Dennis Curtis and Allison Tait, 'Constructing Courts: Architecture, the Ideology of Judging, and the Public Sphere' in Anne Wagner and Richard Sherwin (eds), *Law, Culture & Visual Studies* (Springer 2014).

<sup>11</sup>Jan Gehl, *Life between Buildings: Using Public Space* (Island Press 2011); Rowan Moore, *Why We Build* (Picador 2012).

<sup>12</sup>Sarah-Jane Koulen, 'Blind Justice and the Portraits on the Wall' in Lianne Boer and Sofia Stolk (eds), *Backstage Practices of Transnational Law* (Routledge 2019).

<sup>13</sup>Clare Graham, *Ordering Law: The Architectural and Social History of the English Law Court to 1914* (Routledge 2003) at 2.

<sup>14</sup>*Ibid.*

<sup>15</sup>On how an institution's values are translated into 'logos, slogans, tags and mission and vision statements' see: Christopher Hutton, 'Linguistic Landscape, Law and Reflexive Modernity' in Wagner and Sherwin (eds) (n 10).

<sup>16</sup>Nobuo Hayashi and Cecilia Bailliet (eds), *The Legitimacy of International Criminal Tribunals* (CUP 2017); Andrea Bianchi and Anne Peters (eds), *Transparency in International Law* (CUP 2013); Jeff Handmaker, 'The Legitimacy Crisis Within International Criminal Justice and the Importance of Critical, Reflexive Learning' in B. Jessop and K. Knio (eds), *The Pedagogy of Economic, Political and Social Crises: Dynamics, Construals and Lessons* (Routledge 2018).

Schmidt Hammer Lassen, the company that realized the ICC design, notes how the building is 'sending out a powerful message [to the world] that the ICC is here to do what needs to be done'.<sup>17</sup>

By holding a design competition, an institution can both sketch its ambitions and attract leading architects to translate the institution's values and needs into eye-catching designs. The values symbolizing an institution that are to be expressed on this business card are laid out through the issuing of tenders. What buildings communicate, however, is not straightforward. There is no clear-cut, unidirectional route that fully guides what is envisioned, articulated, visualized and perceived. Once built, a visitor may interpret a building's message in her own way. Nor is there always only one vision driving the design of an institutional building. We argue that architecture is resorted to as a medium for communication in the encounter between international institutions and their audience(s) and aim to shed light on the *ambivalent* aspirations reflected by the architectural considerations in Brussels and The Hague.

To this end, what follows provides a sightseeing tour through the architectural landscape of these two 'legal capitals' and tells the story of the 'touristification' of international law and the development of glamorous bodies of justice in two cities with similar yet different international ambitions. This study is part of our research into the phenomenon of what we call 'international legal sightseeing'.<sup>18</sup> We have become interested in how international law presents itself to 'the public', and in turn in what that public shows up for. We argue that the physical sites of institutional buildings and the public events that take place at these sites are not trivial to the practice of international law. These sites and the activities and interactions on their grounds (re)produce stories that affect our understanding of what international institutions are and what they mean to us.<sup>19</sup>

We situate this approach in the recent turn among critical international legal scholars to the study of international law's materiality.<sup>20</sup> 'Material' can refer to how law *matters*, what kind of 'fabric' it is made of, or how it resides in physical objects and (re)creates a material world. Viewed through

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<sup>17</sup>Denis Olette, architect, ICC project director, and director of Schmidt Hammer Lassen architects in London <<https://www.mosa.com/en-gb/inspiration/case-studies/a-design-that-has-it-all>> accessed 29 November 2019.

<sup>18</sup>Sofia Stolk and Renske Vos, 'International Legal Sightseeing' (2019) *Leiden Journal of International Law* 1 <<https://doi.org/10.1017/S0922156519000682>> accessed 4 December 2019.

<sup>19</sup>On how architectural structures frame social experiences see: Kim Dovey, *Framing Places: Mediating Power in Built Form* (Routledge 1999).

<sup>20</sup>See Jessie Hohmann and Daniel Joyce (eds), *International Law's Objects* (OUP 2019); Hyo Yoon Kang, 'Law's Materiality: Between Concrete Matters and Abstract Forms, or How Matter Becomes Material' in *Routledge Handbook of Law and Theory* (Routledge 2018) 453–474; Luis Eslava, 'The Materiality of International Law: Violence, History and Joe Sacco's The Great War' (2017) 5 *London Review of International Law* 49; Mahmoud Keshavarz and Amin Parsa, 'Targeted by Persuasion: Military Uniforms and the Legal Matter of Killing in War' in Hyo Yoon Kang and Sara Kendall (eds), *Special Issue on Legal Materiality* (2019) 23 *Law Text Culture* 223–239.

a legal sightseeing lens, we see concrete materiality as that which makes international law tangible for its audience and constituency. Thus, you can actually touch a building of an international institution, visit it, sometimes even access it, be part of its space, or experience its boundaries.<sup>21</sup> Legal sightseeing, moreover, connotes a two-way relationship. Through their buildings, institutions can communicate and create ideas and values of international law, but the audience is free to interpret them in its own way.<sup>22</sup> We are not primarily interested in unidirectional power dynamics, but rather in the exchange that takes place at physical sites between institution and public, and how that is mediated through architecture.

Across two sections below, we will take you to the EU headquarters around Brussels' 'Schuman roundabout' and to the premises of the ICC in The Hague. The architecture of these institutions are manifestations of the international identities of the cities in which they reside. Brussels is the capital of the EU;<sup>23</sup> The Hague markets itself as the international City of Peace and Justice.<sup>24</sup> Both locations are part of a congregation of international institutional buildings that occupy a designated space in their city. The EU at the Schuman roundabout forms the centre of the 'European District'; the ICC building is located within The Hague's 'International Zone'. Both areas are working spaces as well as tourist attractions and monuments of international prestige. As such, the buildings fulfil a functional as well as an aesthetic, symbolic role. In section three, we consider how certain architectural choices manifest these two roles that do not necessarily coincide.<sup>25</sup> We are interested to see how architecture is, literally, a crucial part of institutional 'image building'.<sup>26</sup> Thus, in our analysis of concrete materiality, we explore the architectural embodiment of international law's imaginaries.

## 2. The ICC: institutional architecture on the shore

The original brief of the ICC was almost oxymoronic in ambition: authoritarian, yet democratic; transparent, yet high security. It was also to provoke feelings of justice, hope and trust.<sup>27</sup>

<sup>21</sup>As Haldar notes: 'All courts exist in their architectural representation' (n 4) 200.

<sup>22</sup>Dvora Yanow, 'Space Stories: Studying Museum Buildings as Organizational Spaces While Reflecting on Interpretive Methods and Their Narration' (1998) 7 *Journal of Management Inquiry* 215.

<sup>23</sup>European Commission, 'Brussels, Capital of Europe' (Final Report, October 2001).

<sup>24</sup>Gemeente Den Haag, 'City of Peace and Justice' <<https://denhaag.com/en/peace-justice>> accessed 29 November 2019.

<sup>25</sup>Nelson Goodman, 'How Buildings Mean' (1985) 11 *Critical Inquiry* 642.

<sup>26</sup>On the significance of visual narratives and image-making to international law, see also Daniel Joyce, 'Photography and the Image-Making of International Justice' (2010) 4 *Law and Humanities* 229.

<sup>27</sup>Christine Murray, 'Transparency, Democracy, High-Security: Schmidt Hammer Lassen's International Criminal Court' (2016) *The Architectural Review* <<https://www.architectural-review.com/buildings/transparency-democracy-high-security-schmidt-hammer-lassen-international-criminal-court/10001999.article>> accessed 29 November 2019.



**Figure 1.** The International Criminal Court, The Hague, 2017. © Sofia Stolk. Photo: Sofia Stolk.

On the edge of the city of peace and justice, just before the rolling dunes take over the landscape, the six towers of the permanent premises of the International Criminal Court arise out of its lower floors; grandiose and isolated (Figure 1). Before entering the building you cross a wide, slightly elevated plaza: far enough removed from the street to prevent car bombings and with large gaps between the stones to discourage skateboarders. On the square, we find the sculpture 'The Gift', by the Iranian artist Navid Nuur. According to the artist:

the design radiates a sense of security, confidence, energy and strength. I wanted to do justice to the diversity and complexity of the cases dealt with by the ICC and at the same time relate at a profound level to the essence of what it means to be human and the universal emotions that connect us as people.<sup>28</sup>

The shape of the sculpture is meant to resemble the salt crystals that can be found in tears and in the sea. It represents the universal expression of different human emotions as well as the connection between The Hague and the sea. Both the sculpture and the building are value-laden. All elements in the first encounter with the premises aim to communicate the universal importance of the ICC's work.

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<sup>28</sup><https://www.kunstbetrieb.ch/en/navid-nuur-2016-2/> accessed 29 November 2018.

The experience of stepping inside the building communicates yet another story. The first part solely houses the security check; it is a public courthouse, but no one can enter without a passport.<sup>29</sup> An official video about the construction of the new premises mentions that ‘it is important that a formal institution like the ICC does not constitute barriers for people, on the contrary, it must express the essence of democratic architecture’.<sup>30</sup> However, the tension between security and accessibility is omnipresent. CCTV systems are carefully hidden and the terrain lacks traditional security fences with barbed wire. The ideal was to render the security measures invisible by integrating them within the landscape. However, other visual barriers are still in place. After passing the large plaza and the security check, the route leads outside once again, to a walled space that leads up to the main entrance. Inside these walls, the building is surrounded by water, reminding one of a castle moat (Figure 2). The building itself is transparent and opaque at the same time.<sup>31</sup> Its façade is covered with trapezoidal windows. The angles of the glass alternate, ‘to create a feeling of movement and reflection, but also designed to defeat sniper targeting’.<sup>32</sup> The result is a playful façade of alternating green, white and blue. However, despite the extensive use of windows, one cannot see inside.

As one enters the main building, the clear demarcation between public space and authorized access continues.<sup>33</sup> One of the challenges of designing a courtroom is to find ‘the most efficient way to move bodies round a succession of parallel private and public zones’.<sup>34</sup> Thanks to a carefully constructed network of corridors different parties will never coincidentally run into each other. Staff are separated from audience; judges are separated from attorneys; defence separated from prosecution. Staff and visitors can meet in a cafeteria or in the central hall, which features an exhibition about the work of the ICC, but the other doors remain closed unless you have a staff pass.<sup>35</sup> The public galleries of the courtroom are open to visitors, but strict rules apply. All

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<sup>29</sup>On the security issues of courthouses, see also David Tait et al, *Fortress or Sanctuary? Enhancing Court Safety by Managing People, Places and Processes*, Research Report, Australian Research Council, Linkage Project, 2014. Even during the building process everyone who entered the building site was screened. See Martjan Kuit, ‘Streng selectie bouw International Strafhof’ <[https://www.visserensmitbouw.nl/dynamics/modules/SFIL0200/view.php?fil\\_id=6280](https://www.visserensmitbouw.nl/dynamics/modules/SFIL0200/view.php?fil_id=6280)> accessed 29 November 2019.

<sup>30</sup>Schmidt Hammer Lassen Architects, ‘Permanent Premises of the International Criminal Court’, the video was published on the website of the ICC’s Permanent Premises (n 45) and is now available on the ICC’s YouTube Channel: <https://www.youtube.com/watch?v=gz7fQiiTZxw> accessed 29 November 2019. The complicated ‘public’ function of courthouses and its relation to democracy in the domestic setting is discussed by Mulcahy (n 5).

<sup>31</sup>On the ICC’s complex relation with transparency, see Jillian Dobson, *Mapping the Transparency Turn at the International Criminal Court* (PhD thesis, VU Amsterdam forthcoming), on file with authors. On the historical relationship between courthouse architecture and the value of transparency, see for example Katherine Fischer Taylor, ‘The Festival of Justice: Paris, 1849’ in Costas Douzinas and Lynda Nead (eds), *Law and the Image* (University of Chicago Press 1999).

<sup>32</sup>Murray (n 27).

<sup>33</sup>For similar reflections on access and authority in courthouses see Jeanne Gaakeer and others (n 4).

<sup>34</sup>Mulcahy (n 5) 49–50.

<sup>35</sup>On segregation of participants and their circulation routes in domestic courts, *ibid* at 48.





**Figure 2.** The International Criminal Court entrance, The Hague, 2017. © Sofia Stolk. Photo: Sofia Stolk.

belongings, including mobile phones, must be stored in the lockers in the basement. Before accessing the courtrooms visitors must pass another security check. On the public galleries the Rules of Decorum apply: visitors are requested to be silent, pay attention, and to dress suitably.<sup>36</sup> The gallery is separated from the courtroom by a thick glass wall.<sup>37</sup> Again, transparency and inaccessibility operate in tandem.<sup>38</sup> The building communicates inclusiveness as much as exclusion.<sup>39</sup> Conveying inclusivity is imperative for an institution that claims to act on behalf of a global community, but the building itself follows the rationale of sophisticated ‘segmentation and segregation’

<sup>36</sup>‘ICC Rules of Decorum’ <<https://www.icc-cpi.int/iccdocs/PIDS/publications/ICCRODEngLR.pdf>> accessed 29 November 2019.

<sup>37</sup>Sofia Stolk, ‘Imagining Scenes of Mass Atrocity from Afar: Maps and Landscapes at the International Criminal Court’ (2017) 5(3) *London Review of International Law* 425, at 446.

<sup>38</sup>See also Stéphanie Maupas, ‘The International Criminal Court gets a new home’ (*Justice Info*, 15 December 2015) <<https://www.justiceinfo.net/en/justice-reconciliation/25221-international-criminal-court-gets-a-new-home.html>> accessed 29 November 2019.

<sup>39</sup>This contradicting message has also been noted in research about other ICC practices and rhetoric. See for example Christine Schwöbel-Patel, ‘Spectacle in International Criminal Law: The Fundraising Image of Victimhood’ (2016) 4 *London Review of International Law* 247; Immi Tallgren, ‘The Voice of the International Who Is Speaking?’ (2015) 13 *Journal of International Criminal Justice* 135; Sarah Nouwen and Wouter Werner, ‘Monopolizing Global Justice International Criminal Law as Challenge to Human Diversity’ (2015) 13 *Journal of International Criminal Justice* 157; Jillian Dobson and Sofia Stolk, ‘The Prosecutor’s Important Announcements; the Communication of Moral Authority at the International Criminal Court’ (2016) *Law, Culture and the Humanities*.

common to other modern courthouses.<sup>40</sup> This segregation is intentional or even one of the defining features of courthouse architecture,<sup>41</sup> an implicit exercise of power that affects trial participants and visitors alike.

A related tension exists between unity and isolation. The surrounding greenery and courtyard garden symbolize the spirit of 123 countries working together. Architect Bjarne Hammer notes that '[n]o matter where they are, each culture always has a garden. It is the very smallest fundamental thing that we share'.<sup>42</sup> The geographical diversity of the ICC is reflected in the garden vegetation, which includes plants, flowers and substrates from all States Parties; a challenge for gardeners who face the typical Dutch seaside climate. The six towers stand together and are connected on the first floor, yet appear from a distance to be isolated from one another, as well as from the surrounding city. As mentioned, the interior design equally appears to emphasize division over unity.

The location was selected for four practical reasons that also have a symbolic dimension: (1) it is situated close to the detention centre for persons suspected or convicted of international crimes; (2) it is close to major roads; (3) it is part of the International Zone of The Hague; (4) the site is large and thus allows for longer internal distances for security measures, integrated into the landscape.<sup>43</sup> The International Zone is part of the municipality's spatial strategy and includes a cluster of international organizations, resembling Brussels' European district. However, The Hague's international zone is much more fragmented and dispersed. The zone is by no means exclusively occupied by international premises, rather it is a predominantly residential area. The ICC building lies on the far end of the zone. In that sense, the building emphasizes autonomy over integration. The surrounding dunes and its proximity to the sea suggest a certain openness to the world. At the same time, the contrast between the building and its environment emphasizes its isolation.

The architectural project itself started as inclusive as well as exclusive, with an open worldwide design contest. In 2008, the ICC launched a competition to design its new building.<sup>44</sup> It provided a set of key values to be reflected in the design: Justice, Human Dignity, Openness, Credibility, Safety, Global, and

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<sup>40</sup>Mulcahy (n 5) 56.

<sup>41</sup>Julienne Hanson, 'The Architecture of Justice: Iconography and space configuration in the English law court building' (1996) 1 *Architectural Research Quarterly* 50.

<sup>42</sup>Murray (n 27).

<sup>43</sup>ICC Permanent Premises website <<http://www.icc-permanentpremises.org/>> accessed on 18 August 2016; the website has been shut down since 2017, web texts on file with author.

<sup>44</sup>See <<http://www.icc-architectural-competition.com/>> accessed 29 November 2019. A similar competition was launched in 1905, when the "Programme of the Competition for the Architectural Plan of the Peace Palace for the use of the Permanent Court of Arbitration with a Library" was sent out worldwide. The winner of this competition, Louis Cordonnier, designed the Peace Palace.

Icon.<sup>45</sup> Three designs were singled out from among 19 entries, selected by a jury on the basis of criteria such as: incorporation into the urban fabric and surrounding landscape, architecture, safety, and sustainability. The ICC consulted with architects, and finally the Danish firm Schmidt Hammer Lassen was commissioned to realize the design.

The building clearly has an important functional as well as symbolic value. The new premises of the International Criminal Court are, according to its website, designed 'to enable the Court to discharge its duties effectively and to reflect the significance of the Court in the fight against impunity'. At the opening of the premises on 19 April 2016, then Secretary-General of the United Nations Mr. Ban Ki-Moon stated: 'The inauguration of the permanent premises of the International Criminal Court is a milestone in global efforts to promote and uphold human rights and the rule of law'. The ICC President at that time, Judge Silvia Fernández, noted that the building 'helps us safeguard the independence of the Court, its credibility, and, ultimately, its legitimacy'.<sup>46</sup> The new building was thus portrayed as supporting the work of the ICC and embodying the institution's values. The building had to be impressive and grandiose, but still reflect the human scale. A building that takes an authoritative distance yet fosters trust and welcomes a broad audience.

During the opening ceremony the building was praised for its design and its importance for the further consolidation of the ICC as a permanent court that serves global justice. Both ICC staff and the municipality applauded its integration within the dune landscape, and the efforts to create a sustainable building with a small ecological footprint. Denis Olette, architect and director of Schmidt Hammer Lassen, noted that '[d]uring the opening, I talked to several employees at ICC, who told me how proud they are to work there. They now have a building that embodies their mission statement to the world.'<sup>47</sup> On the other hand, the project evoked criticism throughout the process, mainly with regard to the high costs. The project has been funded by the ICC States Parties, and its total cost, including the move, is around € 204 million, which vastly exceeds the initial estimated cost.<sup>48</sup> Moreover, Maupas notes that '[m]any people are disappointed by the impersonal feeling of the place', referring to the business-like appearance of the building.<sup>49</sup> At the end of the day, the

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<sup>45</sup>ICC Permanent Premises website (n 43). See also 'Permanent Premises of the ICC', informational brochure <<https://www.icc-cpi.int/NR/rdonlyres/075EA925-13F6-4C02-8FC7-2FB0C528EDB9/0/lccBuilding0110EngWeb.pdf>> accessed 29 November 2019.

<sup>46</sup>Judge Fernández de Gurmendi, 'Remarks at the Official Opening of the Permanent Premises of the International Criminal Court' (19 April 2016) <<https://www.icc-cpi.int/iccdocs/PIDS/other/160419pres-remarks-oc-ENG.pdf>> accessed 29 November 2019.

<sup>47</sup>Olette (n 17).

<sup>48</sup>ICC, 'The ICC has moved to its permanent premises' (14 December 2015) <https://www.icc-cpi.int/Pages/item.aspx?name=pr1180> accessed 29 November 2019.

<sup>49</sup>Maupas (n 38).

larger part of the building is office space; while the main tower houses three courtrooms and a media centre, the other towers are occupied by over 1,200 workplaces.<sup>50</sup> The practical function competes with the spectacular message.

Another interesting criticism comes from Murray, who notes how, contrary to the notion of presumed innocence, ‘the architecture has already chosen sides’.<sup>51</sup> The white, day-lit rooms where the witnesses and victims wait before they take their place in court stand in striking contrast with the dark holding cells where the accused spend time in between courtroom sessions.<sup>52</sup> Because these spaces inside the closed part of the building are not part of the public image that is conveyed by the institutional building, they are not part of this analysis. However, these choices are far from neutral, and definitely form an important part of the institutional politics that are – consciously or not – communicated by the institutional architecture.<sup>53</sup>

### 3. The EU: A city within a city

For the second stop on our sightseeing tour, we meet at the Schuman roundabout, the *Rond-point Schuman*, marking the heart of the European district in Brussels. The area is situated centrally in the historic Leopold Quarter in Brussels, yet forms an almost separate modern neighbourhood.<sup>54</sup> The Schuman roundabout itself is a small square with big views, and indeed is large enough to host a Christmas market in December and regular protests throughout the year, and to offer parking space for armoured vehicles. Pedestrians can cross straight across the roundabout, rather than having to circumnavigate it, and many frequently do. Standing on the roundabout facing down into the *Rue de la Loi* and thus turned away from the *Parc de Cinquenaire*, we gaze up to the EU Commission’s *Berlaymont* building on our right, and to the EU Council’s *Europa* building on our left. These are two striking pieces of architecture, directly facing each other.

*Le Berlaymont* is the most prominent and best-known Commission building. It was also one of the first buildings used to house the Commission. Currently, it is home to the College of Commissioners and the Commission’s

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<sup>50</sup>Mulcahy gives an historical account of how a growing demand for office space changed the courthouse architecture (n. 5) 51.

<sup>51</sup>Murray (n 27). See also Linda Mulcahy, ‘Architects of Justice: The Politics of Courtroom Design’ (2007) 16 *Social & Legal Studies* 383.

<sup>52</sup>On the architecture of cells, see also Simon et al. (n 4).

<sup>53</sup>Anne Maass and others, ‘Intimidating Buildings: Can Courthouse Architecture Affect Perceived Likelihood of Conviction?’ (2000) 32 *Environment and Behavior* 674; Jonathan Rosenbloom, ‘Social Ideology as Seen Through Courtroom and Courthouse Architecture’ (1997) 22 *Columbia-VLA Journal of Law & the Arts* 463; Michel Foucault, *Discipline and Punishment: The Birth of the Prison* (Penguin 1977); Mulcahy (n 51).

<sup>54</sup>Evert Lagrou, ‘Brussels: Five Capitals in Search of a Place. The Citizens, the Planners and the Functions’ (2000) 51 *GeoJournal* 99.

Secretariat-General (among others).<sup>55</sup> In total, the Commission now resides in some 70-odd buildings.<sup>56</sup> In earlier days, this complex was shared to offer space to the Council and the European Parliament as well. This allegedly changed as the building became associated the most with the Commission, which viewed it as a matter of pride that it would occupy the entire premises.<sup>57</sup> Moreover, the Commission was hard-pushed for space and had already expanded into neighbouring buildings around the Schuman roundabout area, most notably to the *Charlemagne* building next door.

*Le Berlaymont* was built in the 1960s and extensively renovated in the 1990s, re-opening in 2004. The original design,<sup>58</sup> was not altered significantly at the time of the renovation,<sup>59</sup> which did reduce the available parking space, remove 1,400 tons of asbestos, and added environmental and security innovations, as well as service facilities.<sup>60</sup> Importantly, the renovation also added a new façade:

The new envelope allows the combination of technical and architectural solutions whose sober and functional expression is free of any superfluous decoration. This will be a reminder of the purified white wrapping used during the asbestos removal.<sup>61</sup>

The new façade consists entirely of louvers made of laminated glass, which appear white from the outside and transparent from inside. The motorized glass louvers can be moved to either insulate against cold weather or protect against solar heat, and also function as an extra sound barrier. Moreover, they provide ‘excellent views to the outside’, whilst obstructing views into the building.<sup>62</sup>

As seen from the street, building façades provide a canvas that can be consciously used to present a particular message to the outside. Buildings

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<sup>55</sup>Occupants include: Collège, COMM, DIGIT, EEAS, EPSC, HR, OIB, SG, SJ.

<sup>56</sup>‘Buildings of the Commission and Executive Agencies’ [http://ec.europa.eu/oib/buildings\\_en.cfm](http://ec.europa.eu/oib/buildings_en.cfm) accessed 29 November 2019. Roughly 32.000 permanent and contract employees work at the Commission. By comparison, this is around twice the number of people that work for the city Council of Amsterdam. Compare: “Commission Staff,” European Commission, <[https://ec.europa.eu/info/about-european-commission/organisational-structure/commission-staff\\_en](https://ec.europa.eu/info/about-european-commission/organisational-structure/commission-staff_en)> accessed 29 November 2019; AT5, ‘Gemeente Grootste Werkgever van de Stad’ (6 January 2013) <http://www.at5.nl/artikelen/93634/gemeente-grootste-werkgever-van-de-stad> accessed 29 November 2019.

<sup>57</sup>Thierry Demey, *Bruxelles, Capitale de l’Europe* (Badeau 2007).

<sup>58</sup>By Lucien de Vestel, Jean Gilson, and André and Jean Polak.

<sup>59</sup>By Steven Beckers and Pierre Lallemand.

<sup>60</sup>Steven Beckers, Pierre Lallemand, and Jean-Francois Roger France, ‘The Berlaymont Building: The European Commission Headquarters Designed to be a Model of Environmentally Conscious Building’ in Koen Steemers and Simos Yannas (eds), *Architecture City Environment: Proceedings of PLEA 2000* (James & James 2000) 42–45 at 43. The (in)famous addition of a Nordic Sauna dates from 2005, ‘Some like It Hot in the Berlaymont Basement’ (*POLITICO*, 27 April 2005) <https://www.politico.eu/article/some-like-it-hot-in-the-berlaymont-basement/> accessed 29 November 2019.

<sup>61</sup>Ibid, Beckers, Lallemand, and Roger France at 43.

<sup>62</sup>Ibid 43–44.

comprise a ‘forum through which identity and image are communicated’<sup>63</sup> and specifically ‘façades are important discursive spaces’, which communicate messages both in line with and beyond the architect’s intentions.<sup>64</sup> Georgia Aiello has indicated how the tendency to seek the professional help of designers points to EU identity as ‘a site of branding and ever more so furious symbolic production’.<sup>65</sup> It is because the EU Commission recognizes *le Berlaymont* as the building that it is most associated with, that it commissioned an iconic façade.

The *Berlaymont* building takes up the whole block and loosely holds the shape of a cross drawn within a square, with its four arms reaching out into the four corners where the four streets that surround it meet (Figure 3). This leaves triangular open spaces between surrounding street and the centre of the building. Looking at the building from the *Rue de la Loi*, one of the surrounding streets, this evokes the sensation of being embraced by the building, as the two visible arms of the building stretch out over and towards you. It is a somewhat dizzying sensation, which is amplified by the light-coloured horizontal louvers, which obstruct the view into the building. The rhythmic pattern of the façade both works to extend the building’s width, whilst simultaneously drawing the spectator’s gaze. The building in turn leans outwards, past us spectators, across the road, with its broad, steel embrace looming towards the Council.

There does not appear to have been an open tender for the renovation of *Le Berlaymont*. Instead, the Belgian State – then owner of the building – became shareholder in a private sector consortium, SA Berlaymont 2000, that covered the costs of renovation in exchange for a long-term lease on the building.<sup>66</sup> Renovations were scheduled to take five years to complete, yet due to any number of difficulties between the main stakeholders the project incurred significant delays and ended up taking 13 years to realize.<sup>67</sup>

The Council, for the *Europa* building, did hold a design competition. In this, the Council expressed the wish for a ‘new building with high political and symbolic value whilst ensuring that, for activities, it had to perfectly accommodate the Council’s functional needs’.<sup>68</sup> The building had to be safe,

<sup>63</sup>Yanow (n 22) 233. See also Nelson Goodman, ‘How Buildings Mean’ (1985) 11(4) *Critical Inquiry* 642; Dvora Yanow, *How Does a Policy Mean?: Interpreting Policy and Organizational Actions* (Georgetown University Press 1996).

<sup>64</sup>Irina Gendelman and Georgia Aiello, ‘Faces of Places: Façades as Global Communication in Post-Eastern Bloc Urban Renewal’ in Adam Jaworski and Crispin Thurlaw (eds), *Semiotic Landscapes: Language, Image, Space* (Bloomsbury 2010) 256.

<sup>65</sup>Georgia Aiello, ‘The Appearance of Diversity: Visual Design and the Public Communication of EU Identity’ in Jessica Bain and Martin Holland (eds), *European Union Identity* (Nomos 2007) at 153.

<sup>66</sup>Demey, (n 57) 248–50.

<sup>67</sup>Ibid.

<sup>68</sup>Jean Attali and Philippe Samyn, *Europa: European Council and Council of the European Union* (Lannoo 2014) 39 <[http://samynandpartners.com/17\\_e-books/Europa\\_en/files/assets/basic-html/index.html#1](http://samynandpartners.com/17_e-books/Europa_en/files/assets/basic-html/index.html#1)> accessed 29 November 2019.



**Figure 3.** EU Commission, Berlaymont building, Brussels, 2017. © Renske Vos. Photo: Renske Vos.

sustainable, adaptable to ‘the Institution’s evolving needs as well as those of society’, and importantly block A of the historic *Résidence Palace* had to be salvaged.<sup>69</sup> Moreover the design had to:

present a certain image of the European Council and the Council to citizens; be a striking landmark in the city, for its surroundings (European Quarter) and vis-à-vis its immediate neighbours (the *Justus Lipsius* and the *Lex* buildings, also in use by the Council).<sup>70</sup>

It is interesting here that the tender for the *Europa* building does not mention its neighbour across the road, but instead focuses on establishing a Council identity south of the Schuman roundabout. Speculation as to which EU institution is more powerful, or as to how well the two institutions work together, is as old as the EU itself. Ask an EU official formally and they will tell you cooperation runs extremely smoothly. Read between the lines and the image you’ll be left with is of a fragmented landscape made up of tiny fiefdoms. Not just between the Council and Commission, but within and among their various divisions too.

In choosing the design by Samyn & Partners (Belgium):

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<sup>69</sup>Ibid.

<sup>70</sup>Ibid.

The jury appreciated the successful combination of the glass façade with the historical part of Residence Palace, the good integration in the urban environment as well as the very clear concept for the different functions of the building and the interior symbolic expression visible from outside through the transparent façade.<sup>71</sup>

Transparency was thus interpreted as the possibility of exchange and connection through a manifest openness, which enables an outside audience to see what goes on inside.

When looking at the Council's *Europa* building, we find the landmark design has culminated in a complex building. In the right-hand corner sits the only remaining bloc of the originally five-bloc *Résidence Palace*, a historic art-deco sandstone building with even windows and French balconies facing the street and side.<sup>72</sup> The building has an L-shape, which means that out of view from the *Rue de la Loi* it continues around the back, creating a corner into which a second, new building, is nestled. From the street though, it appears as if this second building grows out of the first, extending above and to the side of the first, with its roof covering both buildings and a glass porch extending above almost the full width of the two buildings.

This second building adopts a radically different style from what remains of the *Résidence Palace* and is principally made up of glass, wood and steel. The façade is completely made up of a patchwork of 3750<sup>73</sup> oak window frames, reclaimed from all over Europe.<sup>74</sup> Together the windows, fixed directly frame-to-frame, create a mosaic showcasing 'artisanal language' and 'craftsmanship' as well as 'top-notch construction techniques'.<sup>75</sup> The architects elaborate:

[T]he patchwork says something else. Since in this case, it brings together windows, it not only puts up their multiple frames on the façades, it deploys their poetic resources. They are living environments; they are the precursors of the exchange: between the atrium and the street; between neighbouring houses; between the rooms and the city; between Brussels and Europe.<sup>76</sup>

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<sup>71</sup>L'Union Internationale des Architectes, 'International Competition - Results: Restructuring of 'Residence Palace' Future Headquarters of the European Council and the Council of Ministers of the European Union in Brussels (Belgium)' (26 September 2005) <<http://www.uia-architectes.org/texte/england/Residence/2-results.html>> and <<https://web.archive.org/web/20070811010102/http://www.uia-architectes.org/texte/england/Residence/2-results.html>> accessed 29 November 2019; Council of the European Union, 'Result of the Architectural Competition for the Restructuring of Block A of the *Résidence Palace* Building for Use by the European Council, 12252/05 (Presse 233)' (14 September 2005) <[http://europa.eu/rapid/press-release\\_PRES-05-233\\_en.pdf](http://europa.eu/rapid/press-release_PRES-05-233_en.pdf)> accessed 29 November 2019.

<sup>72</sup>Built in 1923–1927, designed by Michel Polak. Built as a complex of luxurious apartment blocks (A-E). See Regie der Gebouwen, 'Brussel Residence Palace', <<https://www.regiedergebouwen.be/nl/projects/residence-palace>> accessed on 29 November 2019.

<sup>73</sup>Yanow (n 22).

<sup>74</sup>Attali and Samyn (n 68) 67. See also video: ProductiehuisEU 'European Council: introduction to Europa Building, Brussels, available: <<https://www.youtube.com/watch?v=bLB34UjTwWU>> accessed 29 November 2019.

<sup>75</sup>Attali and Samyn (n 68) 67.

<sup>76</sup>Ibid 80.





**Figure 4.** EU Council, Europa building by night, Brussels, 2019. © Renske Vos. Photo: Renske Vos.

The result of this intricate assemblage of windows is that the view into this glass building is largely obstructed.<sup>77</sup> Save for vague outlines of the steel construction holding up the oak window frames, it is hard to distinguish much behind the glass. Yet after dark the light inside the building lights up a curious oval shape, an eleven-story ‘lantern’, which houses the Council meeting rooms.<sup>78</sup> A stylized version of this lantern has become the official logo of the Council Family.<sup>79</sup> The shape is also the source of the building’s popular name: ‘space egg’ (Figure 4).<sup>80</sup>

These two buildings combine into what is formally named the *Europa* Building. A further third building is called *Justus Lipsius*. Together with the *Lex* building, which neighbours *Europa* to its west down-road, they make up the

<sup>77</sup>See also Laurent Vermeersch, ‘Is the EU’s New Council Building a Desperate Attempt to Change Its Image?’ (*The Guardian*, 30 January 2015) <<http://www.theguardian.com/cities/2015/jan/30/eu-new-council-building-brussels-change-image>> accessed 29 November 2019.

<sup>78</sup>Attali and Samyn (n 68).

<sup>79</sup>Consilium -General Secretariat of the Council, ‘A new visual identity for the ‘Council family’’ (Brussels, 4 June 2014), 10435/14 PRESSE 324 <<http://www.consilium.europa.eu/en/general-secretariat/corporate-policies/visual-identity/>> and <<http://www.consilium.europa.eu/en/general-secretariat/corporate-policies/visual-identity/>> accessed 29 November 2019. The ‘Council Family’ is made up of the European Council, the Council of the European Union, the Euro Summit, the Eurogroup, and the General Secretariat.

<sup>80</sup>BBC News, ‘Europa Building: Brussels unveils new €321m “Space Egg” HQ’ (9 December 2016) <<http://www.bbc.com/news/av/world-europe-38268659/europa-building-brussels-unveils-new-eur321m-space-egg-hq>> accessed 29 November 2019.

buildings of the Council Family: the European Council, the Council of the European Union, the Euro Summit, the Eurogroup, and the General Secretariat. This third building is connected to the second by two footbridges on the 2nd and 7th floors, as well as by an underground corridor.<sup>81</sup> Its style is again completely different from the earlier two. Still, they are said to ‘operate together as a single area to ensure the most effective use of space and resources’.<sup>82</sup>

#### 4. Concrete materiality

Institutional architecture offers a chance to visit and observe international law. In that encounter, what do we see? From the descriptions of two sites in Brussels and The Hague emerges amongst other things a desire to be visible. The institutions here wish to be seen with authority and profundity, and their buildings are one concrete medium for producing that visibility even as they may obscure other things. Both through the thought and meeting of requirements that go into the design and through the build itself, the architecture articulates a conscious and sub-conscious narrative. It does so in the language of its symbolism and aesthetic, its function, and its location.<sup>83</sup> These institutional buildings literally are international law in concrete. They are the physical site where law is practiced and where visitors can encounter the institution: see it, touch it, perhaps enter inside. We iterate between the concrete materiality of the buildings as focal point and their allusion to the ideational, the symbolic, the affective.<sup>84</sup>

When we zoom in on two specific sites though, the institutional architecture we find here is simultaneously part of a longer tradition of building icons of international law as expressions of an international identity vis-à-vis an imagined international community.<sup>85</sup> Indeed, part of the wish to commission a building of splendour might be to partake as a credible actor in that tradition. Once situated amidst institutional contemporaries, what should be expressed on the business card that is presented?

To compare the two sites described above, we have identified three main elements that materialize in both institutional architectural projects: (1) the representation of values and needs; (2) embeddedness within the city; and (3) audience expectations. These are crucial issues in the institutional and

<sup>81</sup>Attali and Samyn (n 68) 42.

<sup>82</sup>General Secretariat Council of the European Union, ‘Factsheet on the EUROPA Building’ (December 7, 2016) <<http://www.consilium.europa.eu/media/24207/2016-12-05-press-pack-europa-building-factsheet-final-en.pdf>> accessed 29 November 2019, 2.

<sup>83</sup>Miriam Bak McKenna ‘“A Happy Building”: Architecture and Universal Justice at the International Criminal Court’ in (28 June 2019) *Art and International Justice Initiative* <<https://artij.org/en/blog.html#9>> accessed 29 November 2019.

<sup>84</sup>Eslava (n 20) 50 details how ‘this take on materiality signals to an understanding of the material that moves beyond the narrowly-defined sphere of physical things and views it as existing in constant interaction with the ideational’.

<sup>85</sup>Bak McKenna (n 1).

social imaginaries of international law and how it, literally, takes shape. What does it look like, how do we approach it, and how do we interact with it? The buildings were constructed with certain purposes and effects in mind and evoke feelings and expectations which do not necessarily coincide with the design or with subsequent audience perceptions. The buildings reflect, create and conceal ideals, struggles, and relations. In other words: they *do* something to and with international law through their physical presence. The architecture functions as a mediator in the encounter between audience and institution. In the following analysis we focus on this physical and tangible aspect that we call the concrete materiality of international legal institutions.

#### 4.1. *Symbolic value and functional needs*

To design or renovate an institutional building is a matter of prestige. In the case of the ICC and the EU, this prestige is articulated in terms of their 'global' or 'international' character. The wish of international institutions to reside in a 'landmark' building comes with institutional pride and underlines the importance of its work. The Coalition for the ICC articulated the wish for institutional and architectural ambitions to coincide by quoting the eminent architect Mies van der Rohe, who famously noted that '[a]rchitecture is the will of the epoch translated into space'.<sup>86</sup> At the same time buildings have a functional role – they need to support or even enable this important work by providing the necessary architectural infrastructure.

The buildings of the EU and the ICC clearly subscribe to the idea that architecture represents values and social conventions – both intentionally and non-intentionally.<sup>87</sup> Values are made explicit in the design competitions as well as in the reflections of architects on their projects. Such values can refer to abstract ideas that translate into the symbolic aesthetics of the building but also to more material concerns. The EU Council has been rather vague when articulating values. The *Europa* building obliquely had to present 'a certain image' of the European Council. The ICC included 'justice', 'human dignity' and 'credibility', which are more abstract, as well as 'safety', which can be abstract but also very concrete. A value such as 'sustainability', which is referred to as an important concern for both the EU and the ICC, can represent an ecological as well as an economical value: the design had to take environmental concerns into account and it had to be durable.

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<sup>86</sup>Ludwig Mies van der Rohe, 'Baukunst und Zeitwille' (1924) *Der Querschnitt*. Original text: 'Baukunst ist immer raumgefaßter Zeitwille, nichts anderes.' Quoted in CICC 'Statement to Premises Jury' (30 October 2008) <[http://iccnow.org/documents/CICC\\_Statement\\_to\\_Premises\\_Jury\\_30-31102008.pdf](http://iccnow.org/documents/CICC_Statement_to_Premises_Jury_30-31102008.pdf)> accessed 29 November 2019.

<sup>87</sup>Michael Hays, 'Architecture's Appearance and the Practices of Imagination' (2016) 37 *Log* 205.

One particularly ambivalent value is ‘transparency’ or ‘openness’, often materialized in modern buildings through the use of glass.<sup>88</sup> The ICC building as well as both the *Berlaymont* and *Europa* buildings use glass cladding in their façades. This functionally and symbolically creates openness. Glass is popularly resorted to as signifier of values such as transparency, accountability and accessibility.<sup>89</sup> However, to equate glass with access and transparency is rather too simplistic.<sup>90</sup> Besides, glass is far more widely and even commonly used, for example in train stations and airports, commercial arcades, office buildings, and exposition sites.<sup>91</sup> Moreover, different technological applications of glass can actually be used to control outside views.<sup>92</sup> The *Berlaymont* is clad in glass louvers, yet this is done in order to create openness to the natural light on the inside, whilst obstructing views in. Like the ICC, the *Berlaymont* building deploys an ‘opaque transparency’,<sup>93</sup> making use of windows that block instead of enable views to the inside. In case of the ICC, functional safety concerns clash with symbolic transparency.<sup>94</sup> The building mediates the tension by answering to both concerns, but simultaneously exacerbates the contrast.

The question of functionality and aesthetics also relates to the question of audiences and users: for whom is the building constructed? In their functional capacity institutional buildings mean to relate to the people who work there. Symbolically, the buildings are designed to relate to the people that are the institution’s subjects. The ICC refers to the ‘human scale’, while the *Europa* building considered the needs of society and the EU citizens, as well as its relationship to two other buildings. The ICC’s premises manifest themselves as an authoritative building that listens and understands its constituency and is open to its multiple audiences. As such, it remains a top-down relation. The EU Council seems to emphasize its interest in exchange and connection. Physically as well as conceptually, the authority of the ICC concentrates itself in one building. Whereas the EU – because of its size – is physically embodied by an architectural network spreading out across a particular neighbourhood, and also conceptually does not converge into one specific locus of power.

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<sup>88</sup>Resnik, Curtis and Tait (n 10).

<sup>89</sup>Ibid. See also: Frank Greene, ‘The Image of the Courthouse’ in Steven Flanders (ed), *Celebrating the Courthouse* (W.W. Norton & Co. 2006); Dobson (n 31).

<sup>90</sup>Resnik, Curtis and Tait (n 10) 532.

<sup>91</sup>Ibid. Also: John McKean, *Crystal Palace: Joseph Paxton and Charles Fox* (Phaidon 1994); Rosemarie Haag Bletter, ‘The Interpretation of the Glass Dream -Expressionist Architecture and the History of the Crystal Metaphor’ (1981) 40 *Society of Architectural Historians* 20.

<sup>92</sup>Ibid. Also: Annette Fierro, *The Glass State: The Technology of the Spectacle, Paris 1981–1998* (Cambridge MIT Press 2003).

<sup>93</sup>Rosemarie Haag Bletter, ‘Opaque Transparency’ in Todd Gannon and Jeffrey Kipnis (eds), *The Light Construction Reader* (The Monacelli Press 2002).

<sup>94</sup>On security concerns: Jane Loeffler, *The Architecture of Diplomacy: Building America’s Embassies* (2nd edn. Princeton Architectural Press 2010).

#### 4.2. *Embeddedness within the city*

The EU is so embedded in Brussels that ‘Brussels’ has become synonymous with the institution. In a similar vein, the threat of ‘going to The Hague’ is shorthand for undergoing criminal proceedings in front of the ICC. These are testaments of sorts to Kim Dovey’s thesis that ‘who we are becomes wrapped up with where we are’.<sup>95</sup> Both sites are also at the forefront of the growing importance of cities to international law as hubs, actors, and influencers.<sup>96</sup>

The relationship between the EU and Belgium is interesting to note here. The Belgian government as the host country eager to keep the EU in Brussels has had to commit significant financial resources to accommodate the EU, a process that has not always run smoothly. Moreover, the impact of the EU residing in their city has not been lost on Brussels’ locals. Physically, the EU is located in the centre of Brussels. Yet (un)seen (in)formal social conventions mean that most people finding themselves at the Schuman roundabout will be there for the EU. There are few shops and only a small (yet rapidly increasing!) number of cafés. Listening in on conversations inside these cafés, however, leaves the impression that they are mostly frequented by EU staff or EU-related professionals. This is not surprising as the majority of buildings in the neighbourhood house offices for the EU. There is little to look for in this area, other than the EU. Yet, there are some public spaces in the vicinity. The nearby *Parc du Cinquantenaire* is used for recreational purposes, and there is the possibility of staging protests on the Schuman roundabout itself. Whereas protesters might visit the district specifically to address the EU, visitors to the park often do not seek that engagement. The European Parliament – a short walk away – offers the public events and visits,<sup>97</sup> and there are a few information points along the *Rue de la Loi*. The buildings discussed in this piece are, however, not open to the public as such, with access following a process of accreditation. While the exchange with the public, the city and its architecture was a principal focus in the brief for the *Europa* building, visually the style of the EU buildings – though hugely diverse<sup>98</sup> – is different from

<sup>95</sup>Kim Dovey, *Becoming Places: Urbanism/Architecture/Identity/Power* (Routledge 2010).

<sup>96</sup>Janne Nijman, ‘Renaissance of the City as Global Actor: The Role of Foreign Policy and International Law Practices in the Construction of Cities as Global Actors’ in Andreas Fahrmeir, Gunther Hellmann and Miloš Vec (eds), *The Transformation of Foreign Policy: Drawing and Managing Boundaries from Antiquity to the Present* (OUP 2016); Lisa Roodenburg, ‘Urban Approaches to Human Rights: Tracking Networks of Engagement in Amsterdam’s Debate on Irregular Migration’ (2019) 51 *The Journal of Legal Pluralism and Unofficial Law* 192; Miha Marčenko, ‘International Assemblage of the Security of Tenure and the Interaction of City Politics with the International Normative Discourse’ (2019) 51 *The Journal of Legal Pluralism and Unofficial Law* 151.

<sup>97</sup>European Parliament, ‘Visit the European Parliament’ <<http://www.europarl.europa.eu/visiting/en/>> accessed 29 November 2019.

<sup>98</sup>Renske Vos, ‘A Walk along La Rue de la Loi: EU façades as Front- and Backstage of Transnational Legal Practice’ in Lianne Boer and Sofia Stolk (eds), *Backstage Practices of Transnational Law* (Routledge 2019).

the wider historic Leopold quarter within which the EU district is situated.<sup>99</sup> As such the EU is both embedded within and isolated from its city of residence.

In contrast to the EU, the ICC is located on the outskirts of The Hague, in the North Sea dunes. The building's integration into its natural environment has been a topic of much debate. Although the building means to connect the cityscape with the natural landscape, it also sharply marks the transition. It is surrounded by nature, and as such is not really integrated within the urban environment. At the same time, it is clearly an urban building, and thus not wholly integrated within the natural environment either. When approaching the building from the city, its isolation stands out, but it also appears out of place, severed from its international institutional counterparts through lack of proximity. On paper, the building is part of the International Zone; a dispersed zone that is characterized by institutions that are 'standing alone together' instead of being one cohesive international agglomeration. Being located at the very border of the zone, the ICC retains an isolated position within the zone itself and within the urban and natural landscape. Arguably, this position symbolically emphasizes the unique position of the ICC as an authoritative court with universal aspirations. It is physically rooted in The Hague, but also has universal roots. Its building belongs to the city but also aims to rise above it.

In her analysis of the Supreme Court of the State of Israel, Haldar notes how 'law has at once been designated a separate, formal and distinct site *and* has been located within reach of an urban environment.'<sup>100</sup> This simultaneous connection and distance to the city is what we see happening in the EU and ICC premises. The location of the building and its (non)embeddedness in a city space also affects its real or imagined accessibility. The architectural design of the building consciously creates 'hierarchical networks of space' within and around it.<sup>101</sup> But it is not only the building itself that creates these spatial hierarchies, the surrounding urban infrastructure also facilitates or hinders passage in a less intentionally orchestrated way. The EU buildings are located in an area closed off by social conventions and a demarcated style difference. The ICC building is located outside the city centre and public transport access is limited. These are not spaces one passes through casually without the intention to be at that very site. Haldar points to the 'moment of contrast between the court house and the disruptive conditions of city dwelling'.<sup>102</sup> But where domestic courthouses, like important political or religious institutions, are usually

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<sup>99</sup>Guy Baeten, 'Old Élités in a New City: Restructuring the Leopold Quarter and the Europeanization of Brussels' in Frank Moulaert, Arantxa Rodriguez, and Erik Swyngedouw (eds), *The Globalized City: Economic Restructuring and Social Polarization in European Cities* (OUP 2003) 125; Lagrou (n 54); Alex Papadopoulos, *Urban Regimes and Strategies: Building Europe's Central Executive District in Brussels* (University of Chicago Press 1996).

<sup>100</sup>Haldar (n 4) 193, emphasis in original.

<sup>101</sup>Mulcahy (n 5) 50.

<sup>102</sup>Haldar, (n 4) 187.

located in the midst of the city rumour,<sup>103</sup> the buildings of the ICC and the EU quarter seem much more distanced from city life and thus from ordinary citizens.

### 4.3. Audience expectations

Architecture, like all forms of art, evokes a critical response. The appraisal of buildings depends on many factors, ranging from personal taste to economic considerations and cultural preferences. Projects like the international institutional buildings of the EU and ICC are not initiated by a single like-minded collective of stakeholders, nor are the expectations of their visiting audiences universal. Yet buildings speak to these various audiences all at once. As we discussed before, institutional buildings do not only serve as functional office spaces, but also as public icons, reflecting the values, goals and prestige of the institutions.

The EU Council explicitly favoured a design that would allow for a connection with the world outside its building. Likewise, the ICC made the promise to serve many audiences explicit in its design brief:

the winning design must be a strong and understandable concept that speaks not only to the governments and international civil servants of the ICC, but also to the public and to victims, giving a clear message of the processes taking place at the Court and conveying its meaning and purpose.<sup>104</sup>

The Coalition for the ICC (CICC) explicitly called on designers to:

positively address the needs and concerns of the various communities that interact with the Court. (...) Justice is a very emotive experience for these participants; how the architecture ‘feels’ to them will be particularly significant. Consequently, the general atmosphere should recognize and respect their histories.<sup>105</sup>

The CICC urges the designers to ‘create a dialogue with the greater community, both in its physical form and in its engagement of its surroundings’. This indicates that the ICC anticipates the expectations of their various audiences. If these expectations reflect the actual expectations is a different matter. According to Maupas, many parties are disappointed by the building’s functional outlook.<sup>106</sup> Yet, up till now, no research has been conducted into audience reception that is based on sources other than occasional news articles, bar stories and hearsay evidence.

As functional office spaces, it is important that institutional buildings meet the needs of employees: they have to be safe environments, be

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<sup>103</sup>Luke Scott, ‘Court: The Place of Law and the Space of the City’ (2016) 1 ARENA Journal of Architectural Research 5.

<sup>104</sup>CICC Statement to Premises Jury, (n. 86).

<sup>105</sup>Ibid.

<sup>106</sup>Maupas (n 38).

technologically up to date, and have sufficient desk and meeting spaces. Such spaces may be hidden behind iconic façades, as in the case of *le Berlaymont*, or become part of the façade, as when the meeting rooms are lit inside *Europa*. The need for a functional office holds just as much for the EU as for the ICC buildings. The ICC might be more generally known for its courtrooms, but its reality is equally one of office work. Maupas notes that disappointment relating to this ‘office’ outlook of the ICC indicates that audiences might expect something else when they imagine a courthouse.<sup>107</sup> This reflects certain pre-existing ideas about what it is that is done within the walls of a courthouse and the social conventions that such a space represents. Different audiences may hold different expectations with regard to what an international building should look like. While the ICC was going for ‘grandiose’ but on a ‘human scale’, its building obviously also remains an office building.

With regard to the international character of these institutional buildings, the issue of stakeholders becomes complex. The immediate financial stakeholders, including states and cities clearly have concrete interests.<sup>108</sup> For the EU buildings considered here, adversity and explicit criticism came mostly from within. Conflict between EU institutions, for instance not approving each other’s budget or insisting on a certain exclusivity, meant severe delays were incurred in both the building and the renovation of *Le Berlaymont*.<sup>109</sup> The point is that there is not just one EU: it is made up out of Member States, institutions and divisions, all with different alliances and different issues at play. Between their scheming and bickering a workable path must be found.

It appears that the ICC has faced wider criticism for its building and specifically its cost, which exceeded the original estimate of €190 million.<sup>110</sup> The building was funded by the ICC’s member states through one-time payments and through a thirty-year loan offered by the Netherlands. New States Parties have to pay a share calculated based on the value of the building and must contribute to maintenance costs.<sup>111</sup> Not surprisingly, this has been the subject of many debates amongst member states and other stakeholders. However, information about these deliberations is only sparsely available through reports on the Assembly of States Parties, news articles and informal

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<sup>107</sup>Ibid.

<sup>108</sup>See n 6.

<sup>109</sup>Demey (n 57).

<sup>110</sup>The estimated costs differ per source. The official brochure before building notes a budget of € 92 million. The Coalition for the ICC states a budget of € 119 million <<http://iccnow.org/?mod=premises>> accessed 29 November 2019. In 2015, the ICC estimated the costs at € 204 million <<https://www.icc-cpi.int/Pages/item.aspx?name=pr1180>> accessed 29 November 2019. Other sources note € 214 million, see Maupas (n 38).

<sup>111</sup>Coalition for the ICC, ‘External audit of the International Criminal Court: Audit report on the budget performance of the permanent premises project’ (16-24 November 2016) <[https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP15/ICC-ASP-15-4-ENG.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP15/ICC-ASP-15-4-ENG.pdf)> accessed 29 November 2019.



conversations. The only certainty that can be derived from these speculations is that the process of creating an institutional building is not fully transparent.

Echoes of this criticism to the building can also be found in critique of the ICC more generally. Over the past years concerns within the international community have targeted the ICC's transparency and inclusiveness, especially with regards to effectiveness and selectivity issues of the institute. The persistent doubts regarding the ICC's effectiveness implicitly or explicitly also include a negative cost-benefit analysis of the work of the ICC: much money has been spent and little has been achieved. Anecdotal and unsystematic evidence points to negative impact of the construction expenses on the assessment of the Court's viability. However additional research should be conducted to further test such claims.

As we noted above, both the institutional sites of the EU and of the ICC seek to reach out to a wider audience in their symbolic capacity. Even though the discussed EU buildings do not have much of a practical function beyond the staff and professionals that use them, they do reach a broader audience. While not explicitly mentioned in the concerns of institutions, tourists as an audience are nevertheless inextricably connected to the wish to create a 'landmark' building. To be visible to 'the world' means, in practice, to be visible to people who visit the city. This audience consists of a wide variety of people with an equally wide variety of motives to visit a city and its sites. The regular tourist who visits a city's main highlights following her tourist guide will most likely end up seeing the *Rond-point Schuman* or the ICC building.<sup>112</sup> Equally so, the student in international studies who is eager to find out where her subject of interest resides or to explore opportunities for an internship will be drawn to the same places. A researcher who writes an ethnographic account of institutional daily life can be spotted around *Le Berlaymont* or the ICC's main entrance; and so does the visiting mother who wants to see where her daughter is spending her days abroad. Both the EU and the ICC are accommodating these visitors and employ facilities for tourists to discover what is happening in the buildings that they visit. The ICC is freely accessible and provides a photo exhibition and audio-tour for its visitors.<sup>113</sup> On several occasions per year, for instance The Hague International Open Day,<sup>114</sup> it organizes

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<sup>112</sup>For example, via the city's tourist information pages, for Brussels: <<https://visit.brussels/en/place/The-Europa-building>>The Schuman roundabout is also a stop for the 'Hop-on-Hop-off' tourist bus, <[https://visit.brussels/site/binaries/content/assets/pdf/brussels\\_card\\_hop\\_on\\_hop\\_off\\_maps.pdf](https://visit.brussels/site/binaries/content/assets/pdf/brussels_card_hop_on_hop_off_maps.pdf)>accessed 29 November 2019; for The Hague, see the municipality's brochure 'The Hague City of Peace and Justice', <<https://www.denhaag.nl/web/file?uuid=f92c0be3-0557-4ad1-951b-99b6cf204aa4&owner=2c115978-72f6-4055-8ff7-b248b76e0d8c>>accessed 29 November 2019.

<sup>113</sup>International Criminal Court, 'visit us' <<https://www.icc-cpi.int/visit>>accessed 29 November 2019.

<sup>114</sup>Just Peace, 'The Hague International Open Day' <<https://internationaledag.nl/en/>>accessed 29 November 2019.

activities for groups of visitors who want to get to know the ICC. Similarly, the EU organizes tours around its buildings on its annual institutional Open Day.<sup>115</sup> The European Parliament also has its own exhibition space and visitor gift shop.

It is perhaps more common for a general (tourist) audience to visit the ICC courtroom than an EU office space. After all, the ICC is also more accessible for visitors. Still, both institutions become visible through their buildings in some very fundamental ways, where they manifest consciously as well as sub-consciously a part of what they are or aspire to be.

## 5. Conclusion: shaping international law's concrete imaginaries

This article started off by claiming that the façades of institutional buildings can function as the institution's business card. Like a business card, the ICC and EU buildings have a practical side, providing people with an actual physical address for their international activities. But giving out a business card is also a stylistic move. This expressive act indicates the character of the owner and communicates an identity, a particular house style: its appearance somehow needs to correspond with the values it stands for. Moreover, it is an invitation to get into contact, but hands the initiative over to the receiver. And once it leaves the pocket of its owner, the content and style of the card are open for other interpretations and uses.

In the cases of the ICC and the EU we studied the functional and aesthetic choices in design and analysed how they played out in the city environment. Our gaze is that of an occasional visitor rather than a member of staff. We were curious to see how the architectural design invites or discourages engagement and how it facilitates an encounter, or not. This encounter between international institutions and their audience(s) is marked by ambiguities. In Brussels and The Hague transparency competes with security; embeddedness with isolation. In that sense, the buildings do not only reflect international law's ambitions but also its fundamental inconsistencies and contradictions. In particular, the institutional aspiration of serving and representing a global audience is compromised by the selective accessibility of the mental *and* physical grounds.

The sightseeing tours through Brussels and The Hague draw emphasis on the tangibility of institutions' architecture. The physicality of international law's buildings is part of its imaginary, that which makes it real in people's mind. Simultaneously this attention to the concrete architecture also affirms international law's fictions in the sense that the buildings we discussed are

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<sup>115</sup>European Union, 'Open Day of the European institutions in Brussels' <[https://europa.eu/european-union/about-eu/symbols/europe-day/open-day-brussels\\_en](https://europa.eu/european-union/about-eu/symbols/europe-day/open-day-brussels_en)>accessed 29 November 2019.

meant to express specific values about their resident institutions. Simultaneously their seclusive façades engender a curiosity for what lies behind and thus facilitate the imagining of the international law housed in the buildings.

These buildings attract. The 'touristification' of international law is marked by open days and guided tours: performances that straddle the realms of the spectacle and the everyday. These buildings make for glamorous destinations: this is the place where 'it' happens. They offer a glimpse behind international law's façade, promise the audience a peek through the glitches. At the same time, these buildings house mundane offices and meeting rooms. And that is exactly what the audience wants to see: what it is 'really' like.

International law's fictions need an audience to receive them, to cater to international institutions' desire to be visible. Grand buildings expressing symbolic values to institutions' audiences are part of what shapes international law's imaginaries.

### **Disclosure statement**

No potential conflict of interest was reported by the author(s).