

# Professor Freya Baetens

Special Counsel

## CONTACT INFORMATION

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## PROFESSIONAL BACKGROUND

- Fietta LLP, Special Counsel (2024 onward)
- University of Oxford, Full Professor of Public International Law, Research Director of the Oxford Human Rights Hub and GIC+ Project Director (2022 onward)
- University of Leiden, Europa Institute, Chair in EU External Economic Law (2023 onward)
- University of Oslo, Full Professor of Public International Law, PluriCourts Centre of Excellence (2016-2022)
- University of Leiden, Director LUC Research Centre; Assistant / Associate Professor of Law (2009-2016)
- Max Planck Institute for Comparative Public Law and International Law, Heidelberg, Research Fellow (2008-2009)
- University of Cambridge, LL.B. / M.Phil. lecturer and tutor (2006-2008)

## AREAS OF EXPERTISE

Professor Freya Baetens is an EU-qualified barrister (Member of the Brussels Bar) and Special Counsel at Fietta LLP. Her practice focuses on contentious and advisory elements of public international law (PIL), including inter-state litigation as well as investor-State arbitration. She has represented and advised international and regional organisations (including EU Commission and Parliament; multilateral development banks), state and local governments, and private clients (corporations, NGOs and individuals) in negotiations and before domestic, EU and international courts and tribunals.

She is also a Full Professor of Public International Law, Research Director of the Oxford Human Rights Hub and GIC+ Project Director at the University of Oxford and holds the Chair in EU External Economic Law within the Europa Institute at the University of Leiden.

Her work has related to matters including but not limited to interaction between EU and international law, law of treaties, responsibility of States and international organisations, privileges and immunities, human rights, investment law, territorial and maritime boundaries, law of the sea, WTO law, natural resources law, sustainable development.

She holds a *Cand. Jur./Lic. Jur.* (LL.B./LL.M. equivalent) from the University of Ghent, an *LL.M.* from the University of Columbia, a *Ph.D. in Law* from the University of Cambridge, and an *M.A. in Law* (by Resolution) and a *D.Phil. in Law* (by Incorporation) from the University of Oxford.

## LEGAL PRACTICE

Highlights of Professor Baetens' contentious and advisory practice have included:

*For State governments and sub-national authorities:*

- Representing the Netherlands in an ICSID arbitration brought by Shell plc under the Energy Charter Treaty

- Representing the Republic of Azerbaijan in two separate but parallel proceedings against the Republic of Armenia before the International Court of Justice with regard to alleged violations of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Representing a Middle Eastern State in a contentious proceeding before the International Court of Justice
- Representing the Netherlands in an ICSID arbitration brought by ExxonMobil Petroleum & Chemical BV under the Energy Charter Treaty
- Conducted an expert case study on the EU-Canada Free Trade Agreement and the EU-Indonesia Free Trade Agreement for the Netherlands
- Co-drafted an *amicus curiae* brief in the Advisory Opinion proceedings on Climate Change before the African Court of Human and People's Rights
- Representing a Middle Eastern State in an advisory opinion proceeding before the International Court of Justice
- Advised an Asian State with regard to law of the sea matters
- North-South cooperation in relation to global value chains
- Incorporation of human rights and environmental standards in free trade agreements
- Implementation of human rights, corporate social responsibility and sustainable development rules, including in relation to textile production ('fast fashion')
- Immunities and jurisdiction of officials working for national and regional development banks
- International status, rights and obligations of sovereign wealth funds and State-owned enterprises
- Foreign investment protection, including co-drafting a model bilateral investment treaty, interpretation of jurisdictional scope, investment protection standards, damages, interaction with domestic and EU law, shareholder claims, continuous nationality issues, immunity waivers
- Cybersecurity and forced technology transfer
- State aid for research, development and innovation
- Market-distorting subsidies, trade remedies, export controls and WTO enforcement cooperation
- Provisional application and ratification of various investment and trade treaties
- Implementation of international judgments and arbitral awards, including a PCA award, ICJ judgments and rephrasing of optional clause *déclarations*
- Election to and work of the UN Peacebuilding Commission
- Maritime boundary delimitation of an archipelago State
- Dispute settlement under UNCLOS and WTO law for an autonomous subnational entity
- Shared international responsibility for damage arising decades after conclusion of a peace agreement
- Shared responsibility of international organisations (particularly the EU) and their member States

For international organisations:

- European Commission, regarding the legal aspects of indirect emissions in the Carbon Border Adjustment Mechanism (CBAM)
- European Court of Human Rights, regarding the implementation and execution of judgments
- African Court on Human and People's Rights, regarding alternative dispute resolution (ADR) rules and climate change
- Inter-American Court of Human Rights, regarding reproductive rights and expulsion of aliens
- European Parliament's Committee on International Trade (INTA), regarding the Transatlantic Trade and Investment Partnership (TTIP) and the Comprehensive Economic and Trade Agreement (CETA)
- European Commission, regarding the development of an Anti-Coercion Instrument, and regarding initiating public dialogue on environment protection in the context of the Transatlantic Trade and Investment Partnership (TTIP) negotiations

- UN Committee on International Trade Law (UNCITRAL), regarding the establishment of an Investment Court System and Multilateral Investment Court (incl. financial accountability)
- World Bank, on the implementation of the New York Convention and capacity-building in Iraq

For private parties:

- A mining company, on the impact of water and sanitation rights of indigenous communities
- A construction firm, on foreign investment protection of residential housing projects
- A law firm, on market access, freedom of establishment and recognition of qualifications
- A law firm and accountancy firm, on professional due diligence and conflicts of interest
- A European industry federation, on the right to access to information vs the protection of confidential business information under the Aarhus Convention and EU law
- An international non-profit organisation, on consultative status with UN ECOSOC and AAAS
- An international non-profit organisation, on intervention rules before the ICJ

## PUBLICATIONS

Selected books and book chapters:

- 'The independence and impartiality of adjudicators in regional courts', in: G. Cordero-Moss [Ed.], *Independence and impartiality of international adjudicators*, *Ius Comparatum – Global Studies in Comparative Law* (Intersentia 2023) 283-301
- 'Agents of cross-fertilisation: abusive forum shopping or legitimate forum choice?', in: C. Giorgetti and M. Pollack [Eds.], *Beyond Fragmentation: Cross-Fertilisation, Cooperation and Competition among International Courts and Tribunals* (CUP 2022) 242-274
- 'Identity and diversity on the international bench: implications for the legitimacy of international adjudication', in: F. Baetens [Ed.], *Identity and Diversity on the International Bench: Who is the Judge?* (OUP 2020) 1-26
- *Legitimacy of Unseen Actors in International Adjudication* (CUP 2019)
- 'Invoking human rights: A useful line of attack or a defence tool for States in investor-State dispute settlement?' in: M. Scheinin, *et al.* [Eds.], *Human Rights Norms in 'Other' International Courts and Tribunals* (CUP 2019) 227-262
- 'Invoking, establishing and remedying State responsibility in mixed multi-party disputes: Lessons from Eurotunnel', in: C. Chinkin, F. Baetens [Eds.], *Sovereignty, Statehood and State Responsibility – Essays in Honour of James Crawford* (CUP 2015) 421-441
- 'Horizontal Effect or *Drittwirkung* of International Rules on Discrimination against Migrant Workers', in: G. Goodwin-Gill, P. Weckel [Eds.], *International Migration*, Center for Studies and Research of The Hague Academy of International Law (Brill 2015) 219-243
- 'Discrimination on the Basis of Nationality: Determining Likeness in Human Rights and Investment Law', in: S. Schill [Ed.], *International Investment Law and Comparative Public Law* (OUP 2010) 279-316

Selected journal articles:

- 'Transparency across International Courts and Tribunals: Enhancing Legitimacy or Disrupting the Adjudicative Process?', 91 *NJIL* (2022) 595-636
- 'Protecting Foreign Investment and Public Health Through Arbitral Balancing and Treaty Design', 71 *ICLQ* 1 (2022) 139-182
- 'Judicial Review of International Adjudicatory Decisions: A Cross-Regime Comparison of Annulment and Appellate Mechanisms', 8 *Journal of International Dispute Settlement* 3 (2017) 432-459
- 'Procedural Issues Relating to Shared Responsibility in Arbitral Proceedings', 4 *Journal of International Dispute Settlement* 2 (2013) 319-341
- 'The Abyei Arbitration: A Model Procedure for Intra-State Dispute Settlement in Resource-Rich Conflict Areas?', co-authored with R. Yotova, 3 *Goettingen Journal of International Law* 1 (2011) 417-446

- 'Safe until proven harmful? Risk regulation in situations of scientific uncertainty: the GMO case', 66 *CLJ* 2 (2007) 276-278

## **PROFESSIONAL AND ACADEMIC QUALIFICATIONS**

Admitted to practise in the EU (Member of the Brussels Bar)

## **LANGUAGE PROFICIENCY**

English (fluent), Dutch (fluent), French (advanced), German (advanced), Italian (intermediate), Spanish (basic), Norwegian (basic)