Bruno Simma elected to International Court of Justice

Bruno Simma, an Affiliated Overseas Faculty member at the Law School since 1997 and a member of the United Nations International Law Commission since 1996, has been elected as a judge of the International Court of Justice (ICJ). The 15-judge court, the principal judicial organ of the United Nations and sits at the Peace Palace in The Hague. Judges serve nine-year terms, with one-third of the bench elected every three years. Judges are elected by the UN General Assembly and Security Council sitting separately.

The court hears cases submitted to it by countries and also gives advisory opinions on legal questions referred to it by international organizations and agencies.

Simma was nominated to the ICJ by the Permanent Mission of Germany to the United Nations. “Professor Simma is one of the world’s most renowned and reputable German experts in international law,” the mission said in its nomination. “With his many years of academic and forensic experience in the field of international law, Professor Simma is an outstandingly well-qualified candidate.”

The nomination statement continued: “Alongside his role as dean of the Munich University Law Faculty and his work as professor of international law at Munich University and the University of Michigan Law School, Ann Arbor, Professor Simma was a member of several international bodies, including the United Nations Committee on Economic, Social, and Cultural Rights. He has held guest professorships at the universities of The Hague and Sienna, has had power of attorney presented in cases before the International Court of Justice (ICJ), and is a member of various academic institutions, including the American Society of International Law and the International Law Association. The American Society for International Law honored Professor Simma by awarding him a Certificate of Merit.”

Nominators noted the “particular importance” of Simma’s membership on the International Law Commission of the United Nations, to which he was re-elected in 2001.

Simma has been professor of international law and European Community law and director of the Institute of International Law at the University of Munich since 1973, and served as dean of the Munich Faculty of Law from 1995-97. He also is a member of the International Olympic Committee’s Court of Arbitration in Sports. A native of the Saar region of Germany, he earned his Doctorate of Law at the University of Innsbruck.

Simma also has a long association with the University of Michigan Law School. Before becoming an Affiliated Overseas Faculty member, he was a visiting professor here in 1986 and 1995, and a professor of law from 1987-92. He is co-founder and co-editor of the European Journal of International Law, which holds an annual joint conference with the Law School (see story on page 10).

Simma’s affiliation with the Law School gave two law students the opportunity during the summer of 2000 to work with him on a case to be tried before the ICJ. Then-students Joshua A. Brook, ’02, and Noah S. Leavitt, ’02, worked in Germany with Simma and the team working on Germany v United States. The case involved two German nationals who were tried and executed in Arizona without being informed of their right to assistance from the German Consulate.

Brook and Leavitt flew to The Hague the following spring to hear Simma argue the case before the ICJ. (They wrote of their experiences in the Spring 2001 issue of Law Quadrangle Notes.) The Great Hall of Justice “crackled with drama” and the large number of journalists and television cameras attested to “the global significance of the dispute,” they reported.

“At the table in front us sat the German team. After a brief introduction by Gerhard Westickenberg, legal advisor to the German Foreign office, that stressed the abiding friendship and respect between the two countries, Professor Simma began his arguments. Pressing Germany’s demand for assurances and guarantees of non-repetition, Simma argued, “an apology may constitute an adequate remedy in isolated cases but it is neither sufficient nor appropriate if illegal conduct has become a consistent pattern, as is unfortunately the case here.”

The court agreed, finding that the United States had breached its obligations under the Vienna Convention on Consular Relations and a provisional order issued by ICJ. The court found that U.S. assurance of meeting convention requirements in the future “must be regarded as meeting Germany’s request for a general assurance of non-repetition.”