PARAGRAPH 363 OF THE INTERNATIONAL COURT OF JUSTICE ADVISORY OPINION OF 23 JULY 2025: OR MICROMEGAS AT THE HAGUE COURT

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ABSTRACT

The advisory opinion of the International Court of Justice (ICJ) of July 23, 2025, on "State Obligations in Relation to Climate Change" explores, in a milestone legal decision, the legal obligations of states to protect the climate system from human-induced greenhouse gas emissions.

Indeed, the ICJ unanimously stated that climate change treaties, customary international law, and treaties protecting the environment and biodiversity impose binding obligations on States.

Without disregarding the main part of the advisory opinion, this article will follow the steps of Voltaire's philosophical tale "Micromégas", and, like the namesake character, focus on the small and particular paragraph n°363 of this advisory opinion.

Indeed, within the milestone and massive legal document setting what the "State Obligations in Relation to Climate Change" are, the World Court may have sparked an ontological crisis of what "a territory" is in international law.

« Micromégas » is a famous imaginary voyage authored by the Enlightenment French author Voltaire, in the tracks of works such as Lucian's Extraordinary Things or Swift's Gulliver's Travels.[1]

The main character of the namesake novel is a giant alien from Sirius, 40 kilometers high, studying human society alongside his fellow "dwarf" scientist, 2 kilometers high, from Saturn. Both alien scientists study Earth at first, a whale, before coming into dialogue with humans. If these latter were first seen as microbes by the two aliens, the use of diamonds as magnifying glasses allows Micromegas and his travel companion to study and even converse with humans about philosophical topics, without considering their respective proportions[2].

Beyond the philosophical story, we can, like Micromégas, take a magnifying glass to study a small and even a tiny part of a huge contemporary monument in international law: in this case, it will be paragraph n°363 of the International Court of Justice "Obligations of States in respect of Climate Change" Advisory Opinion of 23 July 2025 (hereafter "the advisory opinion").[3]

The advisory opinion was awaited[4] and encouraged several national or international litigations on environmental topics; its findings are and will be abundantly discussed by scholars[5] as well as the general and/or non-legal audience[6]

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[1] François Marie Arouet (a.k.a Voltaire) is a French philosopher (1694- 1778) from the Enlightenment century, known for his ironical and critical tone toward absolutism. The main authority in English about Voltaire's biography is Hall, E. B. (1906). The friends of Voltaire. Smith Elder & Company; Hall, E. B. (2022). The life of Voltaire. DigiCat. ; Iverson, John R. "Voltaire, Tolerance, Indifférence, and the Limits of Free Speech." Studies in Eighteenth-Century Culture, vol. 47, 2018, p. 261-264. Project MUSE, https://dx.doi.org/10.1353/sec.2018.0025.
Nablow, Ralph Arthur. "WAS VOLTAIRE INFLUENCED BY LUCIAN IN 'MICROMÉGAS?'" Romance Notes, vol. 22, no. 2, 1981, pp. 186–91. JSTOR, http://www.jstor.org/stable/43801775. Accessed 13 Sept. 2025.
[2] Cherpack, Clifton. "Proportion in Micromégas." *Modern Language Notes*, vol. 70, no. 7, 1955, pp. 512–14. *JSTOR*, https://doi.org/10.2307/3039647. Accessed 13 Sept. 2025. For the need of this article we will refer to the following edition of the text, available on "Wikisource" in French: Voltaire Micromégas ((1752)) *Œuvres complètes de Voltaire*, Garnier, 1877, tome 21 (p. 105-118)
[3] Obligations of States in respect of Climate Change" Advisory Opinion of 23 July 2025
[4] Urzola, N., Robinson, N. A., Carandell, L. G., Chen, D., Clark, B., & Pettus, M. R. (2025). State Responsibility for Disrupting Earth's Climate System: Anticipating the ICJ Advisory Opinion. *Env't L. Rep.*, *55*, 10073.
[5] Boyd, David R.: *A Right Foundational to Humanity's Existence: World's Highest Court Embraces the Right to a Healthy Environment, VerfBlog,* 2025/7/30, https://verfassungsblog.de/icj-climate-right-to-a-healthy-environment/, DOI: 10.59704/de20b1179e9aeb70 ; El Mahmoud, K. (2025). One Climate, Many Courts: The ICJ Advisory Opinion on Climate Change, Systemic Integration, Cross-Judicial Law-Making and Interjudicialism. *Völkerrechtsblog*.
[6] Chun, J. (2025). The World Court's Climate Opinion May Increase Regulatory Risk for Singapore Businesses. *Available at SSRN 5375413*. Hesselman, M., Patterson, D. W., Phelan, A. L., Meier, B. M., Tahzib, F., & Gostin, L. O. (2025). Ensuring health at the heart of climate change Advisory Opinion. *The Lancet*.

In a unanimous decision, judges from the World Court stated that :

- " […] the climate change treaties set forth binding obligations for States parties to ensure the protection of the climate system and other parts of the environment from anthropogenic greenhouse gas emissions."

- "[…] customary international law sets forth obligations for States to ensure the protection of the climate system and other parts of the environment from anthropogenic greenhouse gas emissions"

- "States parties to [several environment and biodiversity protection treaties] have obligations under these treaties to ensure the protection of the climate system and other parts of the environment from anthropogenic greenhouse gas emissions"

- […] States have obligations under international human rights law to respect and ensure the effective enjoyment of human rights by taking necessary measures to protect the climate system and other parts of the environment.

- A breach of such obligations can engage the State's responsibility in accordance with "*the well-established rules on State responsibility under customary international law*." (§420 of the advisory opinion).

However, among the abundant and detailed explanations of the Court's reasoning, which led to the conclusions above, the 363rd paragraph may have been easily skipped by the reader.

In this paragraph, the Court states the following*: Several participants argued that sea level rise also poses a significant threat to the territorial integrity and thus to the very statehood of small island States. In their view, in the event of the complete loss of a state's territory and the displacement of its population, a strong presumption in favour of continued statehood should apply. In the view of the Court, once a State is established, the disappearance of one of its constituent elements would not necessarily entail the loss of its statehood. "*

The Court uses this *obiter dictum* to re-emphasize the inter-State cooperation in environmental issues in general, but also to foster such cooperation on the topic of sea-level rise.

However, if this latter question is the "*raison d'être*" of the Commission of Small Island States on Climate Change and International Law (COSIS),[7] the "presumption of 'continued statehood" despite the absence of "one of its constituent elements" may also raise eyebrows.

These constituent elements are the common basics and common language of international law scholars, practitioners, and enthusiasts. Without claiming to have read every international law manual published, we can assume that these elements are addressed in several paragraphs or chapters, even if they are presented under various doctrinal opinions.

Established in the 1930 Montevideo Convention and recalled by the Opinion n°1 of the Arbitration Commission of the International Conference on the Former Yugoslavia, "*the state is commonly defined as a community which consists of a territory and a population subject to an organized political authority; that such a state is characterized by sovereignty."*;[8]

A lifetime would not be enough to produce an extensive review as well as an analysis of all the literature on statehood criteria.

We will only focus on how the mutation of territories, due to sea-level rise, may have an impact on the State theory in international law (I) before trying, through the Voltarian "conte philosophique" and/or anticipation method, to draft elements of response toward this impact (II)

I) The disappearance of the territorial State due to sea-level rise.

The prominent place of territory in international statehood theory is noticeable in several plans. First, a politically organized human population, whether nomadic or not[9], cannot physically exist without a defined territory, regardless of whether it hosts nations that are "large or small" (cf. Preamble of the UN Charter).

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[7] Website of the COSIS https://www.cosis-ccil.org/#our-work; Priess, C. U. (2025). Parallel Advisory Proceedings: The Climate Change Advisory Proceedings Before the ICJ, the ITLOS and the IACtHR. International Community Law Review, 27(1-2), 7-32.

[8] Opinion No.1". *International Law Reports*. 92: 162–166. January 1993. doi:10.1017/CBO9781316152195.002. ISSN 0309-0671.

[9] Cf. Western Sahara, Advisory Opinion, 1.C.J. Reports 1975, p. 12 §81 *"[…] at the time of colonization Western Sahara was inhabited by peoples which, if nomadic, were socially and politically organized in tribes and under chiefs competent to represent them. It also shows that, in colonizing Western Sahara,' Spain did not proceed on the basis that it was establishing its sovereignty over terrae nullius*."

Numerous litigations in international law have arisen around border disputes and territorial conflicts, from the very first well-recorded border litigation concluded by a treaty between the Sumerian city-states of Lagash and Umma[10] to the most recent judgment rendered by the Hague Court on a territorial dispute between Gabon and Guinea[11].

On the territorial dispute issue, we can also mention the principle of *uti possidetis juris,* which is *" a general principle, which is logically connected with the phenomenon of the obtaining of independence, wherever it occurs. Its obvious purpose is to prevent the independence and stability of new States being endangered by fratricidal struggles provoked by the challenging of frontiers following the withdrawal of the administering power*. "[12].

Dr HAMDOUNI summed up the link of the "State-Territory couple" by analyzing that, even a State and its territory may face "assaults" under various forms (government in exile, failed State, etc.), it is nevertheless subjected to endless rearrangements.[13]

Ironically, this central role of territory in civil and political society was already theorized by Voltaire's rival, Jean-Jacques ROUSSEAU, who has written that *"The first man who, having enclosed a piece of ground, be thought himself of saying This is mine, and found people simple enough to believe him, was the real founder of civil society."*[14]

This way of thinking might also lead partisans or founders of micro-nations to "search for sovereignty"[15]

If there is no reason to discard these views on international law or even a philosophical point of view, the climate change crisis forces the international society to reinterrogate itself. States and international organizations that were invited to participate in the proceedings were

[10] Cooper, J. S. (1983). Reconstructing history from ancient inscriptions: the Lagash-Umma border conflict. Undena Publ..
[11] ICJ "Land and Maritime Delimitation and Sovereignty over territory" 19th May 2025 General List n°179. In an Voltarian ironic situation, this case implies a document ("The Bata Convention") was, according to Gabon, aimed to solve the litigation. However, the Court analyzed this "Convention" and rejected Gabonese argument since both Parties did not intend to be bound by this document (cf §47 to 98 of the judgement)
[12] Frontier Dispute, Judgment, I.C.J. Reports 1986, p. 554. §20
[13] Costi, Alberto. *"Urgence climatique : l'obligation de prévenir la disparition de l'État." Revue québécoise de droit international / Quebec Journal of International Law / Revista quebequense de derecho internacional*, special issue, january 2022, p. 233–267. https://doi.org/10.7202/1087968ar
[14] Jean Jacques ROUSSEAU, « The Social Contract » part II https://www.gutenberg.org/files/46333/46333-h/46333-h.htm
[15] Hobbs, Harry, and George Williams. *Micronations and the Search for Sovereignty*. Cambridge: Cambridge University Press, 2022. Print. Cambridge Studies in Constitutional Law.

aware of this imperative, and they produced written submissions and oral observations *"en masse*" : 89 written submissions were developed and fueled the debates in an unprecedented move.

Some Judges from the Hague Court were also conscious of this and have written opinions under this milestone Opinion : Judge Tomka regretted, in his Declaration that the paragraph 363, was rendered by a Court acting like "*high priestess Pythia once did at the Temple of Apollo — uttering a single sentence, the brevity of which belies its astonishing ramifications*."[16] while Vice-President Sebutinde assesses her view that "*such statements are little comfort to those small island States that are in imminent danger of losing substantial territory or completely disappearing off the map due to sea level rise*"[17].

On his part, Judge Aurescu stated that paragraph 363 of the Advisory Opinion "is the first confirmation, by the international justice (and, particularly relevant, by the International Court of Justice), of this strong presumption of the continuity of statehood[18].

If climate change raises an ontological crisis about "climate" refugees (which are currently excluded from the scope of the 1951 Geneva Convention),[19] the ICJ did not formally do the same thing for statehood.

This leaves room for imagination or anticipation of what can be States deprived of their physical territory due to rising sea levels.

II) "A New State and a new Land" or States beyond conventional territory.

The language of paragraph 363 of the Opinion involved can be seen as a "ratchet effect"[20] forbidding any backward step: under this consideration, it may be sufficient for an aspiring

[16] Declaration of Judge TOMKA under the Advisory opinion (esp. §11)
[17] Separate opinion of Vice President SEBUTINDE under the Advisory Opinion §8
[18] Separate opinion of Judge AURESCU under the Advisory Opinion §20 to 23
[19] Cf. inter alia Joanna Apap, Sami James Harju « The concept of 'climate refugee': Towards a possible definition Briefing 05-10-2023 » European Parliamentary Research Service
[20] Alves, C. F. "THE NATURE OF LEGAL AID RIGHTS: CIVIL OR SOCIAL/WELFARE RIGHT? POSSIBLE IMPLICATIONS UNDER THE 'RATCHET EFFECT' DOCTRINE." *Lex Humana (ISSN 2175-0947)*, vol. 12, no. 2, Aug. 2020, pp. 83-96, https://seer.ucp.br/seer/index.php/LexHumana/article/view/2012 ; Stack, K. M. (2017). The Constitutional Ratchet Effect. *Cornell Law Review*, *102*, 1702.
One can also refer to the French Constitutional Council "*Décision*" n°83-165 of January 20th, 1984, in the case "Higher Education Act" in which the Council stated that constitutionally protected rights can be modified or replaced through various Acts as long as they provide "equivalent guarantees." (Conseil Constitutionnel, Décision n° 83-165 DC du 20 janvier 1984 « Loi relative à l'enseignement supérieur » §42)

State to be recognized once in history to have and keep its statehood as enshrined in the diamond, which would not only be forever but also immune to scratches.

However, the territory as a compound of statehood will have to mutate in the context of sea levels rising: one can think of the "Ex-Situ State", theorized by M.BURKETT as a new " *status that allows for the continued existence of a sovereign state, afforded all the rights and benefits of sovereignty amongst the family of nation-states, in perpetuity. It would protect the peoples forced from their original place of being by serving as a political entity that remains constant even as its citizens establish residence in other states. It is a means of conserving the existing state and holding the resources and well-being of its citizens in new and disparate locations in the care of an entity acting in the best interest of its people*."[21]

In her opinion, such a status would be either "deterritorialized nation-states" (like diasporas) or take the form of a Trusteeship.

If the parallel between a "deterritorialized nation-state" and a diaspora might be understandable by "main forms of civilization and […] legal systems of the world" (Article 9 of the Statute of the International Court of Justice), the question of a special Trusteeship is more surprising on two points.

First of all, trusteeships are " (m)odeled on a common-law trust (…)"[22] and, therefore, are linked to English and common-law legal systems as this is stated by the Preamble of the Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition[23].

This Convention, with only 14 Contracting Parties, is far from being universal; compared to the obligations imposed by international environmental law conventions (cf. Advisory Opinion paragraph 440 : « *[...] the Court recalls that the UNFCCC and Paris Agreement [...] seek to protect the essential interest of all States in the safeguarding of the climate system, which benefits the international community as a whole. As such, the Court considers that the obligations of States under these treaties are obligations erga omnes partes*"

[21] Burkett, Maxine. "The Nation Ex-Situ: On climate change, deterritorialized nationhood and the post-climate era." *Climate law* 2.3 (2011): 345-374.
[22] Ibid p.363
[23] "The States signatory to the present Convention, Considering that the trust, as developed in courts of equity in common law jurisdictions and adopted with some modifications in other jurisdictions, is a unique legal institution ».

If BURKETT mentions the United Nations Trusteeship Council (UNTC) as a model[24], this institution forbids such trusteeships for *« territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality"* (Article 78 of the UN Charter). Moreover, the right to self-determination was seen by the World Court's caselaw as "one of the essential principles of contemporary international law."[25].

If the United Nations Trusteeship Council (in French "Conseil des Tutelles[26]"), can be reactivated in case of necessity since its "hibernation" adopted in 1995[27], it cannot be a long-term, sovereignty-friendly solution as this institution was essentially aimed to "*promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory*" (Article 76 1b of the UN Charter).

As such, inhabitants of Ex-Situ Nation will have been drawn from territories which have historically acquired "*self-government or independence*" and achieved a sufficient "*political, economic, social, and educational advancement "*to be considered and recognized as a State.

To come back, even on a symbolic and/or temporary basis, on this principle would also contradict the very heart of the presumption of continued statehood laid by the Hague Court, even if, according to BURKETT, "the existing leadership of an endangered state may opt to serve as the interim authority.

We can even wonder if this comeback, decided without the consent of these Ex-Situ Nations cannot lead them to seek compensation for damages from "a moral, political and legal nature, resulting from the affront to the dignity and prestige"[28].

[24] Cf. United Nations Charter, Chapter XII dedicated to the legal frame of the UNTC
[25] East Timor (Portugal v. Australia), Judgment, I. C.J. Reports 1995, p. 90 §29
[26] One must notice that "Trusteeship" is rendered in French by the word " Tutelles" used for guardianship of infants or mentally handicapped individuals. The World Court has dealt indirectly with "tutelles"/ guardianship questions in one case: "Case concerning the Application of the Convention of 1902 governing the Guardianship of Infants (Netherlands v. Sweden), Judgment of November 28th, 1958: I.C.J. Reports 1958, p. 55."
[27] Rules of procedure of the Trusteeship Council (as amended up to and during its 61st session) T/1/Rev.7
[28] REPORTS OF INTERNATIONAL ARBITRAL AWARDS Case concerning the difference between New Zealand and France concerning the interpretation or application of two agreements concluded on 9 July 1986

The pressure of "climate refugees" on other lands may bring up relocations that may fuel irredentism[29] and new territorial disputes between "climate refugees" and "native" populations: if OBRATOR claims that irredentist policies are "almost as old as the origin of man and society and the planet upon which they operate" with several examples[30], we expect a resurgence of such irredentist movements as "historical" population will be forced to host "climate refugees" in the same way they can already host "1951 Geneva Convention refugees". This being said, the line of demarcation between the two categories of refugees can be hard to draw, as *"Over the past 10 years, weather-related disasters have caused 220 million internal displacements – equivalent to approximately 60,000 displacements per day (...) In 2023, more than a quarter of these occurred in fragile and conflict-affected settings.*"[31]

On this point, "contes philosophiques" (philosophical tales) such as Voltaire's "Micromégas" and science-fiction narratives can be a helpful source of inspiration.

We have indeed left Micromegas and his Sirius travel companion alone in their dialogue with humans since the beginning of our article: let's go back to them.
First of all, the disproportion between Micromegas (a 40-kilometer-tall scientist), his 2-kilometer-high companion from Sirius, and normal humans do not forbid inter-comprehension and even dialogue.

Micromegas, filled with his author's Enlightenment ideals, states: « I see, more than ever, that one cannot judge anything on its appearing height » (we translate) :

The Court follows his tracks: Indeed, on paragraph 109 of its Advisory opinion, one can read that «[…] "specially affected" States or States that are "particularly vulnerable" are in principle entitled to the same remedies as other injured States, as any State whose rights are violated

between the two States and which related to the problems arising from the Rainbow Warrior Affair Decision of 30 April 1990 §10

[29] Pronto, Arnold N. "Irredentist Secession in International Law." *The Fletcher Forum of World Affairs*, vol. 40, no. 2, 2016, pp. 103–22. *JSTOR*, http://www.jstor.org/stable/45290175. Accessed 24 Sept. 2025, Kim, German. "Irredentism in Disputed Territories and Its Influence on the Border Conflicts and Wars." *The Journal of Territorial and Maritime Studies*, vol. 3, no. 1, 2016, pp. 87–101. *JSTOR*, https://doi.org/10.2307/26664127. Accessed 24 Sept. 2025.

[30] ORABATOR, S. E., and S. E. Orabato. "IRREDENTISM AS PRETEXT: THE WESTERN SAHARA CASE 1960-1982." *Journal of the Historical Society of Nigeria*, vol. 11, no. 1/2, 1981, pp. 166–81. *JSTOR*, http://www.jstor.org/stable/41857111. Accessed 24 Sept. 2025.

[31] UNHCR (2024), No escape: On the frontlines of climate change, conflict and forced displacement. United Nations High Commissioner for Refugees

following the international customary law frame.

However, if in the following paragraph, the Court mentions that "*certain States, in particular small island developing States, have faced and are likely to face greater levels of climate change-related harm owing to their geographical circumstances and level of development*", the list of these States is outside the scope of the Court's proceedings, which can be seen as an elegant way to save the ideals of States equality in the international society.

However, if Voltaire in his time criticized territorial wars between States, especially between Imperial Russia and the Ottoman Empire,[32] we have already underlined briefly the risks of territorial rivalries linked with the cohabitation between natives, current refugees, and would-be « climate refugees ».

If Micromégas ends with the gift of a « nice book of philosophy » which is revealed to be made of blank pages, the current international society has fewer blank pages.

Among them: the United Nations Convention for the Law of the Sea (UNCLOS) whose parties, in the opinion of the Court "[…] have an obligation to adopt measures to protect and preserve the marine environment, including from the adverse effects of climate change and to co-operate in good faith" according to point B b) of the operative clause of the advisory opinion.

The Court developed its findings in paragraphs 112 to 124 on one hand, and 339-354 on the others, having consideration, inter alia, for the brand-new Advisory opinion of the International Tribunal for the Law of the Sea ("Climate Change, Advisory Opinion, ITLOS Reports 2024).

A solution for territory-deprived populations might be found not in artificial islands (cf. Article 60 of the UNCLOS) but in another kind of artificial human establishments:

Science-fiction movies can help us : , we can mainly think of the film "Waterworld"[33]: I this movie, involving humans adapting to sea-level rising by developing gills[34], survivors live in

[32] « Millions of men see their throats slited, but none claim even a straw on the tiny mud pile. It is to know whether this belongs to some man called Tsar or to a man […] called Sultan. Neither has ever seen, nor will ever see this piece of land, and none of the animals who slit their throats mutually has ever seen the animal for whom they slit each other" (p. 119)
[33] Reynolds,Kevin,dir.Waterworld. Universal City, CA: Universal Pictures, 1995.
[34] L. D. Mattson, Jeremy Gordon; Becoming Mutant: Metamorphoses for a *Waterworld*. *Environmental Humanities* 1 March 2022; 14 (1): 29–48. doi: https://doi.org/10.1215/22011919-9481418

organized post-apocalyptic societies relying on makeshift rusty "atolls" made of derelict ships to serve as anchorage territories.

Replacing these fictive derelict ships with decommissioned or ad hoc-designed sea cruisers to host territorially deprived populations might be a worthwhile hypothesis: According to a 2024 UN Policy Brief[35] "*The small island developing States (SIDS) are a heterogeneous group of island and coastal states and territories spread across the world. As of June 2023, the group was composed of 57 countries and territories with a combined population of 73.5 million. While 46 SIDS have small populations under 1 million, Papua New Guinea and three nations of the Greater Antilles – Cuba, the Dominican Republic and Haiti – have more than 10 million inhabitants each and accounted for around 60 per cent of the group's population in 2023* »

On the other side, ships of the « Icon » class, currently belonging to the« Royal Caribbean » cruise company (« Icon » class) may embark 7950 souls (5610 guests and 2350 crewmembers)[36] i.e., around 10 000 souls :

As a consequence, 8 « Icon » class-like ships (or more) might technically host the population of the Republic of Marshall Islands (82,011)[37], but this will not be possible without the cooperation of every States.

This would lay some (Asian) dragon teeth as the Republic of Marshall Islands has strong ties with Republic of China[38], despite the weight of People's Republic of China (PRC), a UN Security Council Member.

Finally, if current space technology seems to be too under-developed to allow a cost-effective, life-sustaining space station for a whole population, we can still hope and nourish the solution of Low Earth Orbit station in the following centuries, even if this hopes « *are little comfort to those small island States that are in imminent danger of losing substantial territory or*

[35] Lina Bassarsky, Danan Gu, and Thomas Spoorenberg, Population Division, UN DESA Policy Brief No. 159: Demographic Outlook for the Small Island Developing States: Implications of Population Trends for Building Resilience and Prosperity across SIDS - 29 May 2024

[36] Joanna Bailey "Floating cities: The biggest cruise ships launching in 2025 weigh over 200,000 tonnes » - Euronews ; 06 April 2025 ; Royal Caribeean Press Center 9/05/2024 « Icon of the Sea Fast Facts »

[37] CIA World Factbook 2025 "Marshall Islands"

[38] "Marshall Islands President Heine reaffirms solid diplomatic ties with Taiwan following inauguration » Press Release – Ministry of Foreign Affairs of the Republic of China (Taiwan) January 23, 2024, No. 038

completely disappearing off the map due to sea level rise"[39]

Conclusion

French and France-influenced legal students have experienced in their studies the concept of "Major Judgements" (*Grands arrêts*[40]*)* as French administrative law is built on progressive casuistic judicial decisions: these "Major Judgements" are annotated by top-level scholars in casebooks such as the "*Grands Arrêts de la jurisprudence administrative*" (GAJA) for administrative law.[41]. Under this influence, the European Court of Justice has taken the pilgrim's cross to publish its own « *Selection of major judgments" mixed by "Annotation of judgments »*[42] and Dr E. JOUANNET theorized that a similar thing existed for the World Court[43]

The International Court of Justice's "Obligations of States in respect of Climate Change" Advisory Opinion of 23 July 2025 is undoubtedly such a Major decision as it is the first time that, in a (nearly) universal move, States and international organizations in which they are committed have participated in this legal procedure.

This procedure has led the Court, unanimously, to render an opinion on the fact that international environmental law has its own coherent system, involving *erga omnes* obligations for every State.

However, beyond this groundbreaking importance, paragraph 363 of this opinion has opened a boulevard of interrogation around the fact that a State can lose one of its components (*inter*

[39] Cf Declaration of Vice President SEBUTINDE (note 17 supra).
[40] Those are the major judgements, annotated by top-level experts, members of the French highest administrative jurisdiction. We can mention, one and foremost, René Cassin, Nobel Prize in 1968 and co-author of the 1948 Universal Declaration of Human Rights
[41] Vauchez, A. (2022, May). EU Law Classics in the Making: Methodological Notes on Grands arrêts at the European Court of Justice. In The Making of iCourts (pp. 135-152). Nomos Verlagsgesellschaft mbH & Co. KG.
[42] https://curia.europa.eu/jcms/jcms/Jo2_7083/en/ ; Several authors gathered major judgements of the Luxembourg Court in an equivalent way since 1974 cf. Hélène Gaudin (coord.), Marc Blanquet, Joël Andriantsimbazovina et Francette Fines, *Les grands arrêts de la Cour de justice de l'Union européenne. Droit constitutionnel et institutionnel de l'Union européenne*, 2e éd., Dalloz, Paris, 2023, 1407 pages ;
[43] E. JOUANETT *Existe-t-il de grands arrêts de la Cour internationale de Justice ?* , *Les arrêts de la Cour internationale de Justice, Textes rassemblés par Charalambos Apostolidis, Dijon, Éditions universitaires de Dijon, 2005, p. 169-197.* Several authors have written such casebooks on international casebooks cf. *Guillaume Le Floch. Les grandes décisions de la jurisprudence internationale - 2ème édition. Dalloz, 2021. (hal-04649958)*

alia, its territory) but not its statehood.

As for the Opinion as a whole, this paragraph leads, *" on a new legal and political epoch, in which uncertainty, inconsistency, and phenomena without precedent may indeed become the norm. It is not clear what exact changes it will yield, but it will be key to identify the principles we use to engage them* ».[44]

From micro-solutions to mega shifts in the international legal society, this paragraph may shake something any international legal enthusiast has taken for granted or obvious.

That can be uncomfortable; however, one can also see this ontological crisis as a new way to think creatively about the notion of territory at the scale of the whole of humanity.

Micromégas, the philosophical character, was too tall to enter physically in the Hague Court's Great Hall of Justice, but one can think his ideals (and Voltaire's ones) of conciliation between small and large nations for the common good of Mankind at large and the issue of small islands' development may have guided the judges in the adoption of this Advisory Opinion.

It would not really be a surprise as Voltaire stayed in Holland between 1736 and 1745: if human activity may have an impact on a whole planet, the intellectual activity of a single man on a determined territory is not nonsense under this enlightened way of thinking.

[44] Burkett, Maxine. "The Nation Ex-Situ: On climate change, deterritorialized nationhood and the post-climate era." *Climate law* 2.3 (2011) p. 374.