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**ENFORCEMENT OF INTERNATIONAL COURT OF JUSTICE JUDGEMENTS:
LESSONS FROM THE EUROPEAN COURT OF JUSTICE**

By

MWICHE KAFUBU

LLB22113916

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THE REQUIREMENT FOR BACHELOR OF LAWS (LLB) DEGR**

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DECLARATION

I declare that this Dissertation entitled, **ENFORCEMENT OF INTERNATIONAL COURT OF JUSTICE JUDGEMENTS: LESSONS FROM THE EUROPEAN COURT OF JUSTICE**. Which is hereby submitted in partial fulfilment of the requirement for the award of a Bachelor's degree at the University of Lusaka is my own original work and it has not been previously submitted for the award of a degree at this University or any other tertiary institution

I understand what Plagiarism entails and I am aware of the University's policy in this regard. Thus, where other people's work is cited, I have duly acknowledged. The errors or omissions in this work are solely mine

MWICHE KAFUBU

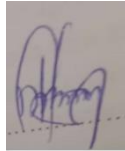
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SUPERVISORS RECOMMENDATIONS

I recommend that this dissertation prepared under my supervision by Mwiche Kafubu, titled **ENFORCEMENT OF INTERNATIONAL COURT OF JUSTICE JUDGEMENTS: LESSONS FROM THE EUROPEAN COURT OF JUSTICE**, be accepted for examination. I have checked it carefully am satisfied that it fulfils the requirement stipulated and format laid down in the regulations governing directed research.

Mr Innocent Nyambe



.....

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First and foremost, I take this privilege to appreciate my heavenly father, who is God the Almighty, because he has been very faithful and has brought me this far, which I would not have done but for his Grace and for this reason I will forever be grateful and praise him

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Firstly, would like to dedicate this dissertation to my God, the father Almighty, because it is through his Mercy, love and Grace that I have made it this far. And My Parents Remmy Kafubu and Gertrude Mpundu Kafubu who have made so many sacrifices, worked tirelessly and taken care of my needs, thank you so much for all that you have been and all you have done for me, words cannot even begin to describe how grateful I am and how much I love you, may the Almighty Father continue to bless and keep you safe always. I love you so much Mom and Dad.

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ABSTRACT

The International Court of Justice, as the principle judicial organ on the United Nations, has the power to issue judgments, that being the case, enforcement of the said judgments remains a challenge in International Law, this is because most of its judgments are dependent on Voluntary compliance and a recourse to the United Nations Security Council. This dependence on these two factors has produced a large enforcement gap, which undermines the Court's authority as well as its legitimacy. This study critically analyzed the current enforcement framework of the of the International Court of Justice, highlighting its limitation and weaknesses and then identifying what lessons can be drawn from the European Court of Justice, a court whose enforcement framework has shown a relatively higher level of state compliance and effectiveness.

This research was rooted in a qualitative and doctrinal approach, learning from primary legal instruments, including statutes, ICJ and ECJ cases and books, also drawing from other secondary sources such as journals and internet sources. It analyzed two landmark ICJ cases, 'Ukraine v Russia' and DRC v Rwanda to show how the enforcement of ICJ judgments is limited and subject to political biasness in disputes that are politically sensitive. On the other hand, the paper will reviewed two cases from the ECJ, these cases being, ' NH v Lenford' and the case of the 'commission v Greece. These cases highlighted the two enforcement mechanisms that the ECJ uses, that make their enforcement more effective. These two mechanisms involve a decentralized system, which allows for direct effect and individual standing in the EU, and a centralized system, which involves infringement procedures and financial sanctions.

The study undertook to make some recommendations on how the ICJ can redesign its framework to incorporate some factors that can help enhance enforcement of its rulings.

CHAPTER ONE

1.0 INTRODUCTION

The international court of justice plays an important role in the maintaining of international peace and legal order as it is the principal judicial body of the United Nations. It has the authority to settle disputes between states and to give advisory opinions on legal questions as provided for in **Article 65, statute of the International Court of Justice**¹. However, while its decisions are legally binding, the enforcement of the said decisions has proven to be problematic as a number of judgments passed by the court have been met with non-compliance, particularly when the interests of politically powerful states are at play. This raises important concerns about the competence of the court and the efficiency of international adjudication.

The European Court of Justice on the other hand has developed a more effective mechanism for enforcing its decisions throughout the European union, this is done through treaty-based infringement proceedings and enforcement mechanisms such as interim measures and financial sanctions² and as a result, the European court enjoys a high degree of compliance.

The contrast between these two courts poses an opportunity to explore whether the enforcement mechanisms from the European Court of Justice can be adapted (even partially) to the structure of the International Court of Justice in order to strengthen its enforcement regime on a global scale.

1.1 BACKGROUND OF THE STUDY

The International Court of Justice, also known as the World Court, was established in 1945 under the United Nations Charter with the aim of providing a peaceful means for resolving legal disputes between sovereign states and has its headquarters in Hague, Netherlands. This court was established to replace the Permanent Court of International

¹ Statute of the International Court of Justice

² EU Institution; Court of Justice of the European Union (CJEU) available @ <https://european-union.europa.eu>

Justice following the replacement of the League of Nations with the United Nations after the Second World War.

Despite being highly respected, its decisions have repeatedly failed to illicit compliance, especially in politically sensitive or high-stake cases. **Article 94(1), UN Charter**³ provides that states should comply with decisions of the court however, this has proven to be futile as some states simply just don't comply, an example is the case of **Nicaragua v United States**⁴ where the courts ruled in favor of Nicaragua, declaring that the actions of the United States were illegal and ordered them to cease their military activities in Nicaragua but the United States refused to comply with the decision of the court and due to lack of an enforcement mechanism, the ruling was rendered meaningless.

Article 94(2), UN Charter⁵ further states that were a state does not comply with the court's decision, the other party may have recourse to the United Nations Security Council, a measure that has proven ineffective as a result of the veto power of the permanent five members of the United Nations Security Council. An example is the ongoing case of **Ukraine v Russia**⁶, in this case the latter filed a complaint against the former, alleging that its invasion of Ukraine was unjustified ergo, violating the genocide convention and the courts ruled in favor of Ukraine, ordering Russia to cease all military activities in Ukraine, but Russia, being one of the permanent five, used its veto power to evade the decision, a move which has resulted in the continuance of the war between the two states.

The European court of Justice on the other hand was established in 1952 as part of the Court of Justice of the European Union and is the highest court in the EU, its duty is to interpret the law and to hear cases brought to it by either the commission or a state. This court in particular has a more robust enforcement mechanism of enforcement mechanism, which involves treaty-based compliance mechanisms and where parties fail to comply with their obligations under an agreement, an action can be brought against them. **Article 259, TFEU**⁷ states that if a party contends that another party has breached its obligation

³ United Nations Charter

⁴ Nicaragua v United States

⁵ ibid 94(2)

⁶ Ukraine v Russia

⁷ Treaty of the Functioning of the European Union

under an agreement, that party must bring up the issue before commission; the commission will then give an opinion which is to be complied with.

According to **Article 258, TFEU**⁸, if the party against whom the complaint is brought does not comply with the commission's opinion as well, the commission must then take the matter to the court and the court will then impose an interim measure, ordering the offender to either perform an act or refrain from doing an act. **Article 260, TFEU**⁹ further states that if the offender does not comply with the decision of the court, the court will impose a financial, which will either be in the form of a lump sum or daily payments. This had been illustrated in the case of **Commission v Italy**¹⁰ where the court found that Italy had failed to fulfil its obligation, but Italy delayed to comply with the decision of the court and they were then ordered to pay a financial penalty, which was in form of daily payments.

1.2 STATEMENT OF THE PROBLEM

Despite delivering legally binding judgments, the International Court of Justice has faced difficulties in ensuring compliance by states, especially where political interests are at play, this is because the court has no enforcement mechanism thus a critical legal problem arises from this enforcement gap, this being, while its decisions are legally binding, their practical impact is limited

Of course, **Article 94 of the United Nations Charter**¹¹ empowers the court, but this very Article also offers a loophole for states to evade judgment because sub- article 1 relies on voluntary state compliance, which allows states not to comply if it's convenient for them. Furthermore sub- Article 2 relies on the United Nations Security for enforcement, a reliance which is subject to the veto power of the Security council permanent five members, allowing them to manipulate decisions to fit their interests, which is why this dissertation aims to assess whether some procedural and institutional features of the European Court of justice can offer insight into the strengthening of the International court

⁸ ibid 258

⁹ ibid 260

¹⁰ Commission v Italy

¹¹ United Nations Charter

of Justice's enforcement mechanisms? As the European Court of Justice has a more iron clad mechanism of enforcement.

1.3 RESEARCH OBJECTIVES

1. To examine the current enforcement framework of the ICJ and its limitations
2. To examine the current enforcement framework of the ECJ and what factors contribute to its success
3. To identify which lessons from the ECJ can be transferrable into the ICJ so as to enhance enforcement of its Judgments

1.4 RESEARCH QUESTIONS

1. What are the main challenges facing enforcement of ICJ judgments?
2. what factors contribute to the ECJ's success?
3. Which of the said factors can be adapted to the global framework of the ICJ to enhance enforcement of its rulings?

1.5 SIGNIFICANCE OF THE STUDY

The significance of addressing this legal problem is to highlight the challenges facing enforcement of International Court of Justice in order to see why they cannot secure compliance and to propose ways in which the court can become more effective and able to enforce its rulings while drawing insight from the European Court Justice which has more effective enforcement mechanism which involves financial sanctions and infringement proceedings, this authority is reinforced in the European commission's ability to initiate enforcement against non-compliance.

1.6 SCOPE OF STUDY

This study will cover an examination of cases that have been adjudicated on by both these courts, comparing the outcomes based on how the parties comply to rulings and how these decisions are enforced, if, they are enforced at all, all the while comparing the effectiveness of their enforcement provisions.

1.7 DEFINATION OF TERMS AND ACRONYMS

Veto: An official power or right to reject a decision made by a lawmaking body

Sanction: A threatened penalty for disobeying the law or rule

Infringement: The action of limiting or undermining something

ICJ: International Courts of Justice.

ECJ: European Court of Justice.

TFEU: Treaty of the Functioning of the European Union.

EU: European Union

1.8 LITRETURE REVIEW

Tom Ginsbury- The international court of justice Is limited by institutional design and nature of international law, and its dependence on state consent¹²

- The researcher agrees with this particular scholar as the ICJ's institutional design is not structured well enough to allow the court to carry out its duty past hearing disputes and giving advisory opinions and also, with regards to dependence on state consent, it hinders the courts from performing its duty because some states refuse to consent to the jurisdiction as was the case in the case of **Congo D R V**

¹² Tom Ginsbury; The international context of international court of justice (2021), public Law and Legal Working papers

Rwanda¹³ where Rwanda refused to consent to the court's Jurisdiction over their matter, thereby hindering it from doing its job.

Eyal Benvenisti – reliance on voluntary compliance reflects the broader limitation of international law where sovereignty and political interests outweigh legal obligation¹⁴.

- This researcher agrees with the scholar above because this reliance on voluntary compliance means that states can simply refuse to comply, and bringing in sovereignty, there is really not anything they can do to interfere in the matters of a sovereign state minus consent from that state. Moreover, these concepts favor politically stronger states as weaker states are more or less bullied, this can be seen in the ongoing case between **Ukraine v Russia**¹⁵ were, as opposed to just complying with the decision of the court, Russia being a politically strong state, is opting to instead pressure Ukraine to submit to their demands with the promise of a ceasefire.

Eric Posner – the ICJ is politically constrained and its decisions often reflect the interests of powerful states and also that judges of the court often favor their home states, making them biased and impartial, therefore, there is need to be alert of political realities in order to achieve success in international adjudication¹⁶.

- This researcher agrees with the scholar because, theoretically, the ICJ is “capable” of ensuring international peace and fairness. However, in reality, the court judges are a little biased and tend to favor the countries from which they hail.

Martti Koskeniemi – the court is unable to resolve real world disputes, and it lacks a firm normative foundation, making it politically biased to some extent¹⁷

¹³ Congo DR v Rwanda [2006]

¹⁴ Judicial misgivings regarding the application of international law; An Analysis of national courts (1993), vol 4 issue 2, page 159-183: European Journal of International Law, available @ <http://doi.org/10.1093/oxfordjournals.ejil>

¹⁵ Ukraine v Russia

¹⁶ Eric Posner, Decline of the International Court of Justice (John M Olin program in law and economics working papers, No233, 2004) available @ <https://chicagounbound.uchicago.edu>

¹⁷ Martti Koskeniemi, 'from Apology to utopia university press 2006

- This researcher agrees with the scholar because the structure of the ICJ allows it to favor states that are politically strong even if it's not what the court intended but because it lacks an enforcement mechanism that is firm.

Rosalyn Higgins- the former ICJ judge asserts the institution of the court is weak and subject to political interests and further states that the ICJ is not a world government, so its legal influence is often checked by geopolitical realities.

- This researcher agrees with the scholar because, due to certain geographical factors, states can evade the decisions of the courts as the courts will not be able to punish because maybe that particular state is on the other side of the world, hence the courts cannot take them to task.

Alec Stone Sweet – the ECJ gave real meaning to vague treaty rules and turned them into laws that could be enforced¹⁸.

- This researcher agrees with the scholar above, as it is true that the use of treaties as a way to bind states to certain obligations is quite effective because states are forced comply with all decision regarding the treaty, which makes for enforcement of the court's decisions more effective.

Grainne de Burca – the ECJ plays a key role in filling the enforcement gap where institutions like the commission failed. Through tools like infringement procedures, the court has made sure member states respected EU obligations¹⁹.

- The researcher agrees with the scholar because 'infringement' entails that states have no option but comply, making enforcement effective.

¹⁸ Alec Stone Sweet, The European Court of Justice and the Judicialization to the EU governance; living reviews European governance @ <https://ideas.respec.org>

¹⁹ Paul Craige and Grainne De Burca, .EU law, texts, cases and materials (7th edn OUP 2020)189

1.9 RESEARCH METHODOLOGY

1.9.1 Research approach: this research will use a qualitative comparative legal analysis. According to **Creswell**²⁰, comparative analysis involves examining similarities and differences across multiple cases of instances in order to understand a concept in depth. This approach will be designed to analyze the enforcement mechanism of two judicial bodies, aiming to understand how these courts operate within their respective legal frameworks and to identify what practices can be adapted from one context to another.

1.9.2 Research design: This is research doctrinal in nature and boosted by comparative and case study approaches. The doctrinal method involves a detailed analysis of legal principles, treaties, case law, and academic literature.

The comparative aspect will help identify the strengths and weaknesses of enforcement mechanisms of both courts. Case studies will be used to evaluate how enforcement has played out in practice in selected landmark decisions.

1.9.3 Research type: This research is qualitative, comparative, and doctrinal in nature. Qualitative in the sense that the study is based on textual and interpretive analysis rather than numerical or statistical data. It will explore legal texts, court rulings, treaties, and scholarly writing to draw conclusions.

It is comparative because it will systematically compare the enforcement systems of both courts, find similarities and differences, and see what mechanisms are transferable to enhance compliance. And lastly, it is a doctrinal as it focuses on legal rules, principles and case law governing enforcement mechanisms of the courts.

1.9.4 Sampling size: given the qualitative nature of the study and the purposive sampling technique, the sample size consists of four landmark judicial decisions, two from the ICJ and two from the ECJ.

1.9.5 Sampling Technique: This study will use a purposive sampling technique for the selection of cases of studies which is appropriate given the research's qualitative and

²⁰ J W Creswell, research, design: quantitative, Qualitative and mixed method approaches (sage publishers 2009)

doctrinal nature. The aim is not to generalize all the ICJ and ECJ's cases but to select illustrative cases that provide deep insight into the enforcement by these courts.

1.9.6 Data Collection: the research will rely on both primary and secondary sources. Primary sources will involve statutes, treaties, judgment, and advisory opinions. Secondary sources will include books, journals, and articles on international adjudication.

1.10 ETHICAL CONSIDERTIONS

To conform with research ethics requirements, first permission will be sought from the University of Lusaka ethics committee; second permission will be sought from individual research subjects. The researcher will endeavor to follow academic writing principles like referencing and acknowledgement of other people's work.

CHAPTER TWO

2.0 EXAMINING THE CURRENT ENFORCEMENT FRAMEWORK OF THE ICJ ITS LIMITATIONS

2.0.1 INTRODUCTION

As the principal judicial organ of the United Nations, the ICJ is tasked with the role of settling disputes between states as well as providing advisory opinions on legal questions in accordance with international law. While its judgments are legally binding on parties involved in the case as per **Article 59, UN, Statute of the ICJ**²¹ and should be complied with, as provided for in **Article 94(1) UN Charter**²², enforcement of said judgments remains a challenge as the court has no direct coercive power and relies solely on voluntary state compliance and the United Nations Security Council, in accordance with **Article 94(2) UN Charter**²³

This chapter will examine the current enforcement framework of the ICJ and highlight the limitations that the court faces. This will be in line with the research objectives of this dissertation. To illustrate the weaknesses of the court, this analysis will dissect two recent cases, *Ukraine v Russia (2022)* as well as, *the Armed activities on the territory of Congo (DRC v Rwanda) (2006)*.

2.1 CURRENT ENFORCEMENT FRAMEWORK OF THE ICJ.

2.1.1 Voluntary State Compliance.

The court derives its power to give advisory opinions from **Article 65, Statute of the International Court of Justice**²⁴ which states that the court may give an advisory opinion on any legal matter at the request of any authorized body and **Article 59, ICJ Statute**²⁵ further provides that the court's decisions are binding on the parties to the dispute. **Article 94(1), UN Charter**²⁶ then obliges member states to comply with the

²¹ Statute of the International Court of Justice

²² United Nations Charter

²³ *ibid* 94(2)

²⁴ Statute of the International Court of Justice

²⁵ *ibid* 59

²⁶ United Nations Charter

rulings of the Court stating that each member state of the United Nations undertakes to comply with the rulings of the International Court of Justice on any matter which that state is party to. States are deemed to be bound by the court's ruling through accepting the jurisdiction of the court by virtue of entering into treaties, this shows the establishment of a binding duty under international law, however, as a way to honor treaty obligations and maintain diplomatic relations, most of the judgments rendered by the court are backed by voluntary compliance and as such, most cases have been complied with voluntarily²⁷.

This compliance is, however, not legally binding but it is rooted in the need to create a credible international community as well as the principle of pact sunt servanda which basically entails that agreements must be kept²⁸. This voluntary compliance however depends on the political will of the concerned state, and this greatly contributes to the decline in compliance rates, especially disputes involving major powers.

2.1.2 Enforcement through the United Nations Security Council.

According to **Article 94(2), UN Charter**²⁹, if a state does not comply with judgment rendered by the court, the other party to the matter may refer the issue to the United Nations Security Council, the council will then make recommendations or provide a guide as to how the judgment may be effected. In theory the security council is tasked to play the role of the political enforcement arm, and as such, it can impose any actions to compel compliance in accordance with **Article 39(1), UN Charter**³⁰ which basically states that the Security Council can must identify the existence of a threat to peace and make recommendations on the measures to be taken in order to curb the threat

The case is however different in practice, as this enforcement mechanism has been limited by the veto power of the permanent five members, this was illustrated in the case of **Nicaragua v USA**³¹ where even though the courts ruled in favor of Nicaragua but the

²⁷ Shabtai Rosenne, 'the law and practice of the international court (4th edn, brill 2006) 191- 193

²⁸ Oxford public international law, available @ <https://opil.ouplaw.com> accessed August 12, 2025

²⁹ United Nations Charter

³⁰ ibid 39

³¹ Nicaragua v USA

United States, being one of the permanent five members of the council used its veto power to evade compliance. This has also been the case in the ongoing dispute between ***Ukraine v Russia***³² where even though the courts have ordered Russia to cease all military activities in Ukraine, the former continues to terrorize the later³³. If the non-complying state is one of the permanent five members of the council or is a close ally of a permanent five-member, political realities may preclude the council from taking any enforcement action as these members are shielded by the power to veto decisions thus weakening the court's enforcement regime.

2.1.3 Diplomatic and political pressure.

There are certain instances when enforcement is pursued through diplomatic negotiations, state imposed economic sanctions or pressure from the international community³⁴. These measures have proven to be unreliable because they do not have uniformity and consistency, as they can also be dependent on geopolitical factors. Furthermore, the ICJ's non-political mandate, which is aimed at maintaining impartiality in the in the courts when applying international law limits its influence in addressing serious political tensions that integrated in many cases brought before it. While the Court can render judgments on the basis of international law, it has no ironclad way of compelling states to end conflicts or establish peace agreements, which requires a level of diplomatic engagement and willingness, which is beyond the Court's jurisdiction, Ergo resulting in partial or no resolutions, where the legal aspects of an issue are addressed, but enforcement is non-existent due to political duress and influence³⁵.

³² Ukraine v Russia

³³ Al Jazeera, 'Ukraine Russia war: list of key events, available @ <https://www.Aljazeera.com>news>Russia-Ukraine-war> accessed August 12th, 2025

³⁴ Attila Tanzi, problems of enforcement of decisions of the international court of justice and the law of the united nations: European journal of international law, Available @ <https://www.ejil.org> accessed August 12th, 2025

³⁵ The ICJ Under Pressure: Addressing The Challenges Of Modern-Day Multilateralism, available at <https://theowp.org/reports/theicj/under/pressure/adressing/the/challenges/of/modern/day/multilarerialism> accessed 25th September 2025

2.2 LIMITATIONS TO THE CURRENT FRAMEWORK

2.2.1. Dependency on state goodwill

While International Court of Justice judgments are final and binding on the parties to the dispute as per **Article 59, ICJ Statute**³⁶, the court has no independent task force or enforcement mechanism instead, enforcement relies on the goodwill of the states themselves. Achieving compliance with ICJ judgments has proven to be difficult as many states comply but only years after the judgment was rendered; other states comply but only partially³⁷. The fact that there is no supranational authority to carry out enforcement means that the court places a great amount of reliance on voluntary compliance, which, has proven to be ineffective over time because states can simply refuse to comply and when this happens, there is no authority to take the non-complying state to task³⁸.

2.2.2. Veto power of the permanent five

The Security Council and the ICJ are the only organs of the United Nations that have the power to issue binding obligations on Members. The structure of the United Nations however, allows the permanent five members of Security Council to dodge enforcement action by evoking their power to veto decisions. A single veto from any of the permanent five members can hinder any resolution, regardless of how the other members or the international community as a whole vote.

This has continuously resulted in inaction or delayed responses to major conflicts and humanitarian crises, as seen in the cases of Ukraine, Palestine, Syria and Sudan this is

³⁶ Statute of the International Court of Justice

³⁷ Eric A. Posner, 'The Decline of the International Court of Justice: John M. Olin Law & Economics Working Paper NO. 233 (2D series) (university of Chicago press 2004) available @ <https://www.law.uchicago.edu/lawcon> accessed August 12th, 2025

³⁸ *ibid*

because geopolitical interests override the need to protect civilians and uphold international law³⁹. Therefore the recourse to the United Nations Security Council is

subjected to politicking which in turn corrupts the ability of the Council to effectively, truly and justly enforce ICJ judgments⁴⁰.

2.2.3. Lack of a monitoring mechanism

Although its advisory opinions are legally binding, the court has no permanent tracking mechanism to track down whether or not states are complying with the court's rulings like domestic and regional courts. The court lacks an efficient and effective monitoring mechanism within its framework. The International ICJ itself significantly weakens the enforcement of its rulings because the Court has no independent means to monitor compliance or compel states to act or to refrain from acting. This absence therefore, forces the court to rely on states to provide reports on their own compliance or for the victorious party to provide reports stating whether or not the losing party is complying with the rulings of the courts⁴¹. Without an ironclad system to track down implementations, states tend to ignore judgments or selectively comply, this move greatly undermines the court's authority⁴².

2.2.4 Political shielding

It is quite common for states to enter into regional and/or strategic alliances, while this is very beneficial to states, it also contributes to the failure to enforce ICJ rulings as some states are protected by these alliances, some examples of these alliances are; the alliance between the United States of America and Israel, this alliance gives the US power to veto any Security Council resolutions aimed at enforcing ICJ judgments against Israel.

³⁹ Amanda Huan, 'The Effectiveness of the United Nations' available @ <https://rsis.edu.sg/rsis-publication/rsis/the-effectiveness-of-the-united-nations/> accessed August 12th, 2025

⁴⁰ Taha Wiheba, 'HLS PILAC Series of Primers on the U.N. Security Council, 'A Primer on the Relationship between the Security Council and the International Court of Justice (2004)

⁴¹ Paola Patarroyo, 'Monitoring provisional measures at the International Court of Justice: *the recent amendment to the Internal Judicial Practice*, 'Blog of the European journal of international law available @ [EJIL: Talk! – Blog of the European Journal of International Law](https://www.ejil.org) accessed 23rd September 2025

⁴² Attila Tanzi, problems of enforcement of decisions of the international court of justice and the law of the United Nations: European journal of international law, Available @ <https://www.ejil.org> accessed August 12th, 2025

The formation of alliances also hinders enforcement of judgment against states if the other states involved lack strong allies. It also encourages emblematic Authority Over real Justice because these political restrictions mean the ICJ's authority is, in practice non-existent but rather symbolic.

While judgments are binding on states that are party to the dispute as per **Article 59, ICJ Statute**⁴³ and can shape international opinion, the court has failed to guarantee real-world compliance or deliver justice to the aggrieved states in most of the cases brought to it because politically strong states use their influence and political strength to avoid accountability, especially in cases such as those involving human rights violations or disputes over territories⁴⁴, this has been seen in the case of **Palestine v Israel**⁴⁵ where Israel continues to brutalize the territory of Palestine⁴⁶ without facing any consequences because it has some very strong allies backing it. Political shielding also undermines the Rule of Law Political shielding and the resulting selective application of justice create a perception of double standards, which erodes trust in the international legal system and the ICJ's legitimacy as an impartial body.

2.2.5 Sovereignty and non-compulsory jurisdiction

In order for the ICJ to preside over a case, it must as a preliminary matter determine whether it has jurisdiction over the matter. Issues of jurisdiction “are those which determine if the Court has the right or authority to hear the case brought by a state⁴⁷,” The court’s jurisdiction depends solely on the consent of states, this is made so through treaties, declarations or special agreements, and this is so in accordance with **Article**

⁴³ Statute of the international court of justice

⁴⁴ Ahana Pant, ‘The International Court of Justice and the Enforcement Gap: Law Without Power, available @ <https://recordoflaw.in/the-international-court-of-justice-and-the-enforcement-gap-law-without-power> accessed 25th September 2025

⁴⁵ Palestine v Israel

⁴⁶ BBC World News: Israel and the Palestinians: History of the conflict explained, available at <https://www.bbc.com>

⁴⁷ S. Gozie Ogbodo, ‘An Overview of the Challenges Facing the International Court of Justice in the 21st Century : Annual survey of international and comparative law vol.18 issue 1 (Article 7, 2012) available @ <https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article> accessed 13th September 2025

32(2), statute of the ICJ⁴⁸ Therefore the court cannot hear a case minus the consent of all parties to the matter and even when it does hear such a case, the enforcement is hindered by principles of state sovereignty, this was illustrated in the **DRC v Rwanda**⁴⁹ case, where the latter refused to recognize the jurisdiction of the court. This then means that the court lacks the ability to secure compliance physically.

2.2.6 Exclusion of Non-State Actors

Another limitation to the enforcement of ICJ judgments is its exclusive focus on disputes between sovereign states only. Non-state actors, such as individuals, companies, and NGOs, do not have a standing before the Court, even though international law affects their rights or interests directly. Moreover, even when the court issues a binding ruling, domestic implementation is not promised⁵⁰.

Also where there is a dualist legal system, judgments by the ICJ do not enforce themselves automatically, rather they require domestic, legislative or executive interference in order to have an effect⁵¹., highlights this issue has been highlighted in the US Supreme Court's ruling in **Medellin v. Texas**⁵² where the court held that ICJ decisions cannot be enforced in courts in the United States minus implementing legislation. Domestic barriers as it weakens the practical impact of international court's decisions, especially in a system where the judiciary does not align itself with international norms⁵³.

⁴⁸ Statute of the international court of justice

⁴⁹ DRC v Rwanda

⁵⁰ Ahana Pant, 'The International Court of Justice and the Enforcement Gap: Law Without Power, available @ <https://recordoflaw.in/the-international-court-of-justice-and-the-enforcement-gap-law-without-power> accessed 25th September 2025

⁵¹ ibid

⁵² Medellin v Texas 2008

⁵³ Ahana Pant, 'The International Court of Justice and the Enforcement Gap: Law Without Power, available @ <https://recordoflaw.in/the-international-court-of-justice-and-the-enforcement-gap-law-without-power> accessed 25th September 2025

2.3 ENFORCEMENT CHALLENGES ILLUSTRATED THROUGH RECENT LANDMARK CASES.

2.3.1 Ukraine v Russian federation (2022)¹⁰

This case in particular highlights a few legal disputes, primarily those that deal with violation of human rights as well as breaches of international law as per Article **2(4), UN Charter**⁵⁴ which states that All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the objectives of the United Nations. This breach by Russia, began in 2014 and then led to a full-blown invasion of Ukraine in 2022. The brief facts of the case are as follows;

This case was brought before the ICJ by Ukraine against Russia, following the latter's invasion of the former. Ukraine filed an application against Russia under the Genocide Convention, alleging that Russia's genocide claims against Ukraine were false and a ploy by Russia to invade Ukraine. This followed after Russia alleged that Ukraine was engaged in acts of genocide. Ukraine also alleged that Russia has failed to counter the financing of terrorism by armed groups in eastern Ukraine and racial discrimination. In March of 2022, the ICJ issued provisional measures, ordering Russia to cease military operations in Ukraine, effective, immediately, an order which Russia simply did not comply with, alleging that the court lacked jurisdiction over the matter⁵⁵

The main challenges in this case that hindered the enforcement of the court's decision are; the fact that Russia is a permanent five member of the United Nations security council, which made it hard to secure compliance and rendered Ukraine's recourse to the united nations security council spineless as Russia vetoed any enforcement attempt. This illustration shows the courts inability to compel states to comply when a powerful

⁵⁴ United Nations Charter

⁵⁵ Ibid

state refuses to comply and how rulings are subjected to geopolitical interests when the respondent has veto power, which leads to a continuance in disputes as has been the case in the case above in which we see the two states going back and forth⁵⁶.

Thus a successful international court must be weary of political realities. This is a proposition that no one has ever denied, not even the ICJ itself. The question is whether or not the judges have had the right incentives to respect the interests of the powerful states without undermining international law⁵⁷.

2.3.2 Armed activities on the territory of the Congo (Democratic Republic of Congo v Rwanda) (2006)¹¹

This case involved the DRC accusing Rwanda of armed aggression and seeking Reparations but the court could not preside over the matter because Rwanda refused to consent to the Jurisdiction of the court the brief facts are as follows;

The DRC brought an action against the respondent, claiming that the Rwanda had violated human rights and participated in a number of armed activities, thereby breaching international treaties. These claims further included allegations of genocide and war crimes. Even though the court affirmed its obligation under international law, the enforcement of its decisions in this particular case was hindered by its lack of jurisdiction over some claims as a result of some reservations made by Rwanda to relevant treaties and its non-recognition of the courts compulsory jurisdiction.

This outcome reflects on how jurisdictional limits can hinder substantive adjudication. Rwanda also refused to comply to matters that the court had jurisdiction over, and it was easy for Rwanda do so because the court lacks an enforcement mechanism. And also,

⁵⁶ Michael Kelly, *The Role of International Law in the Russia-Ukraine War*, Case western reserve journal of international law (2025) vol 55 issue 1, Case Western Reserve Journal of International Law Student Journals Case Western Reserve University School of Law available @ <https://scholarlycommons.law.case.edu/> accessed 27th September 2025

⁵⁷ Eric A. Posner, 'The Decline of the International Court of Justice: John M. Olin Law & Economics Working Paper NO. 233 (2D series) (university of Chicago press 2004) available @ <https://www.law.uchicago.edu/lawcon> accessed 27th September 2025

*due to political alliances, the African Union and other regional bodies played little to no role in pressuring Rwanda, this further weakened the courts position*⁵⁸.

The case above shows how jurisdictional restrictions and lack of enforcement mechanisms can prevent the court from securing compliance in cases involving allegations of serious crimes under international law, even when the states involved are not so politically strong. The court's jurisdiction is based on the doctrine of state consent therefore the court can only preside over disputes if all parties consent to its Jurisdiction whether specifically or generally⁵⁹. Although, the Court has prima facie, compulsory jurisdiction in accordance with **Article 36(2), ICJ Statute**⁶⁰ under the Optional Clause, however many states neglect to accept this compulsory jurisdiction or accept it based on reservations, this is inclusive of powerful global states like the US, China, and Russia. This voluntary intake structure limits the reach of the Court⁶¹

2.4 COMPARATIVE OBSERVATIONS FROM BOTH CASES

In both cases, it can be noted that the court's capacity to enforce its rulings has been undermined by a mix of both political and legal factors. In the **Ukraine** case, the issue is not one of jurisdiction but rather the interference from the United Nations security council, particularly the power to veto decision by the permanent five members, a power which has been repeatedly used to avoid compliance of the court's rulings. The case of **the Armed activities on the territory of Congo** on the other hand, shows how jurisdictional barriers can prevent the court from even hearing claims, effectively nullifying any concerns of enforcement.

⁵⁸ DRC v Ukraine

⁵⁹ UN General Assembly: Advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965 available @ <https://docs.un.org/en/A> accessed 25th September 2025

⁶⁰ Statute of the International court of Justice

⁶¹ Ahana Pant, 'The International Court of Justice and the Enforcement Gap: Law Without Power, available @ <https://recordoflaw.in/the-international-court-of-justice-and-the-enforcement-gap-law-without-power> accessed 25th September 2025

2.5 CONCLUSION

The enforcement mechanism is the court is structurally weak as a result of its reliance on voluntary compliance as well as, the recourse to the United Nations Security Council as per **Article 94(2), UN Charter**⁶², a reliance which is subject to political will of members, especially the permanent five members. Thus, while the courts judgments carry significant moral and legal authority, they lack of an autonomous enforcement framework, which means that compliance solely depends on the good will of states. Furthermore, although the Court holds a special position as the principal judicial organ of the united and despite the binding nature of its judgments, it lacks the power and mean to ensure real enforcement⁶³. From Historical cases such **Nicaragua v United States**⁶⁴ to **Ukraine v Russia**⁶⁵ and **DRC v Rwanda**⁶⁶ highlight just how powerful states evade accountability, making the role of the ICJ appear mostly symbolic in reality⁶⁷.

Minus the implementation of broader reforms, the International Court of Justice faces a risk of upholding a legal framework that speaks thoroughly but acts ineffectively, especially now when there has been a series of serious global threats and violence supported by states⁶⁸.

Therefore there is an urgent need for effective and enforceable international legal reforms and strategies. Therefore, to address the enforcement gap, reforms should focus on the expansion of the court's jurisdiction and ensuring institutional independence, then and only then can international law shift from merely a moral persuasion to an enforceable obligation⁶⁹. The two case studies examined in this chapter illustrate that

⁶² United Nations Charter

⁶³ Ahana Pant, 'The International Court of Justice and the Enforcement Gap: Law Without Power, available @ <https://recordoflaw.in/the-international-court-of-justice-and-the-enforcement-gap-law-without-power> accessed 25th September

⁶⁴ Nicaragua v United States

⁶⁵ Ukraine v Russia

⁶⁶ DRC v Rwanda

⁶⁷ Ahana Pant, 'The International Court of Justice and the Enforcement Gap: Law Without Power, available @ <https://recordoflaw.in/the-international-court-of-justice-and-the-enforcement-gap-law-without-power> accessed 25th September

⁶⁸ Ibid

⁶⁹ ibid

without a systematic and secure mechanism to ensure compliance, be it through the Security Council or regional agreements, the court will continue to face substantial challenges in securing effective compliance to judgments.

CHAPTER THREE

3.0 THE ENFORCEMENT MECHANISMS OF THE EUROPEAN COURT OF JUSTICE AND THE FACTORS BEHIND ITS SUCCESS

3.1 INTRODUCTION

The effectiveness of any international judicial body depends on the strength of its enforcement mechanism, while the ICJ has historically struggled with struggle to secure compliance of its judgments due to reliance on voluntary compliance as per **Article 94(1), UN Charter**⁷⁰. The ECJ on the other hand has proven more effective in securing compliance and has emerged as a uniquely successful supra national court due to its invention of strategies to ensure that judgments are enforced⁷¹. It is the highest court within the Court of Justice of the European Union (CJEU) and its main objective is to ensure that EU law is interpreted and applied effectively across all Member States and that European Union institutions and national governments act in accordance with the EU law⁷².

Some of its functions include the interpretation of the law of the European Union and ensuring that it is applied the same way in every country that is a member of the European Union, which is done through the preliminary ruling procedure. The court also hears cases referred to it by the European Commission or a member state, to force another member state to comply with EU law. The court can also nullify the laws of the EU if a member state, the Commission, the Council, or the European Parliament makes a request in that regard. The court also handles claims from non-states actors that have suffered damage as a result of EU action or inaction. The ECJ can hear complaints from individuals, companies, or member states if an EU institution fails to make a required decision⁷³. Therefore, the ECJ ensures the uniform application of the laws of the European Union⁷⁴

⁷⁰ United Nations Charter

⁷¹ Karen J Alter, 'The European Court's political power (OUP 2009) 3

⁷² EU institution: Court of Justice of the European Union (CJEU) available @ <https://european-union.europa.eu/institutions-law>

⁷³ *ibid*

⁷⁴ Paul Craig and Grainne De Burca, 'the evolution of EU law (2nd edn, OUP 2011)

This chapter seeks to explore the dissertation's objective of examining the ECJ's enforcement system and identifying the factors that contribute to its successful enforcement. The structure of this analysis will focus on two landmark cases, these being; ***NH v Associazione Avvocature Per I Diritti LGBTI***⁷⁵, which will illustrate the decentralized enforcement of European Union law through direct effect and the protection of individual rights on one hand and ***Commissioner v Greece***⁷⁶, which will highlight the European Court's power to impose sanctions and financial penalties on member states caught wanting. These cases show a twofold mechanism of enforcement, decentralized enforcement by individuals and national courts, and centralized enforcement by the commission and the court.

3.2 LEGAL AND INSTITUTIONAL FRAMEWORK

The legal basis of the Courts enforcement lies in ***Article 19, Treaty on European Union***⁷⁷ which mandates the European court to ensure that the law is observed when interpreting and applying the treaty, as such, the enforcement mechanism has been split onto two systems, a decentralized system and a centralized system.

The Court of Justice has 27 judges, one from each member state and is assisted by 11 independent lawyers all appointed for a term of 6 years. Cases are typically heard in chambers by three or five judges. The ECJ therefore acts as an administrative and constitutional judicial body in the EU⁷⁸. Its fundamental principles, established through case law like, ***Van Gend en Loos***⁷⁹ which is the leading Authority for direct effect, individual standing and supremacy of EU law over national law. The European court's procedures have been laid out in its Rules of Procedure, A key procedure is the preliminary ruling mechanism provided for in ***Article 267 TFEU***⁸⁰, which allows

⁷⁵ *NH v Associazione Avvocature Per I Diritti LGBTI*- Rete Lenford 2020

⁷⁶ *Commission v Greece* 2000

⁷⁷ Treaty of the functioning of the European Union

⁷⁸ Access to European Union law: Rules of Procedure of the Court of Justice of the European Union available @ <https://eur-lex.europa.eu/EN/legal-content/summary/rules-of-procedure-of-the-court-of-justice-of-the-european-union>

⁷⁹ *Van Gend en Loos v Nederlandse Administratie der Belastingen*

⁸⁰ Treaty of the Functioning of the European Union

national courts to ask the court for help in deciphering the law of the European Union, thereby ensuring its consistent application.

The twofold system has been explained below;

3.2.1 Decentralized Enforcement – this system allows for individual and national courts to apply the law of the European Union directly through doctrines such as direct effect, supremacy and state liability⁷. **Article 20, TFEU**⁸ further states that citizens of the European Union shall enjoy the rights and be subject to the duties imposed by the treaty.

3.2.2 Centralized enforcement – the commission initiates infringement actions as provided for in **Article 260, TFEU**⁹, provides that a state that breached treaty obligations shall be subjected to a financial penalty.

This dual system helps to avoid enforcement gaps like those seen at the ICJ, which lacks both individual standing and a supranational enforcement body¹⁰.

3.3 DECENTRALIZED ENFORCEMENT: Direct effect and Individual rights

- The European Union's judicial framework is structured in a way that allows for national courts to directly refer matters regarding the application and interpretation of the law of the EU in member states to the European Court of Justice, thus creating a decentralized system of enforcement in the EU. Decentralized enforcement in the ECJ refers to the system by which EU law is enforced not just by the Commission, but also through national courts. The role of the ECJ is to interpret the said law and to ensure uniformity in its application, with national courts acting as the primary enforcers.
- This system, which includes mechanisms like preliminary rulings as provided under **Article 267 TFEU**⁸¹, shares the enforcement burden and ensures effective legal protection across the EU. **Article 267, TFEU**⁸² specifically entails that national courts can refer cases to the ECJ to fuel interpretation of acts as it states that The Court of Justice of the European Union shall have jurisdiction to give

⁸¹ Ibid

⁸² Ibid

preliminary rulings concerning (a) the interpretation of the Treaties and (b) the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union. The direct effect was first brought out in the ***Van Gend en Loos case***⁸³. This direct effect allows for individuals to invoke the law of the European Union in national courts without implementing domestic measures, in a nutshell, Member States are mandated to provide legal solutions to ensure effective legal protection in areas covered by the law of the European Union. The significance of this effect has been demonstrated in the landmark case ***NH v Associazione Avvocatura per i diritti LGBTI***⁸⁴

3.3.1 case analysis: NH v Lenford⁸⁵

*A senior lawyer in Italy made a public declaration on the radio, in an interview about how he would never employ a homosexual person at his firm. This remark prompted legal action from Associazione Avvocatura per i diritti LGBTI- Rete Lenford, an Italian association that advocated for LGBTI rights. The association alleged discrimination, placing reliance on Directive 2000/78/EC (employment equality directive)*⁸⁶.

*The Tribunal di Bergamo found NH guilty of discrimination and ordered him to issue an apology, come up with a non-discriminatory action plan and to pay a fine to the Associazione. NH appealed this decision, questioning the interpretation of this Directive but the ECJ upheld the court's decision and held that the directive conferred enforceable rights on individuals, and such rights could be invoked even when national law does not fully implement the Directive*⁸⁷.

3.3.2 Significance of the case

This case illustrates the direct effect and decentralization. It shows that individuals too can rely on the law of the European Union before national courts hence increasing

⁸³ Van Gend en Loos v Nederlandse Administratie der Belastingen

⁸⁴ NH v Associazione Avvocature Per I Diritti LGBTQ- Rete Lenford 2020

⁸⁵ ibid

⁸⁶ Curia-documents, Directive 2000/78/EC, available @ <https://www.curia.europa.eu> accessed 15th September 2025

⁸⁷ NH v Associazione Avvocature Per I Diritti LGBTQ- Rete Lenford 2020

enforcement venues⁸⁸ The case provides a balance between freedom of expression and protection of individual rights, this is per **recital 11, directive 2000/78**⁸⁹ which states that discrimination of based on sexual orientation may undermine the objectives of the treaty. it also shows how individuals are empowered to act as private enforcers of EU law, an enforcement mechanism that is lacking in the ICJ⁹⁰.

The case also highlights the supremacy of European law as national measures that contravene EU law are dis applied, this supremacy was further highlighted the case of **Costa v E.N.E.L**⁹¹ where the courts held that a subsequent unilateral measure cannot take precedent on the law of the European community. Overall, this case shows how member states cannot shield themselves from enforcement by their own citizens.

3.4 CENTRALIZED ENFORCEMENT: sanctions and penalties

Other than direct individual enforcement, the commission can initiate infringement proceeding, this is in accordance with **Article 258 TFEU**⁹² which states that where a state does not comply with ruling of the commission, that particular state may be brought before the court and **Article 260(2) TFEU**⁹³ further provides that if noncompliance continues, the court may specify the amount of lump sum or penalty payment to be paid. Furthermore In case of violation of European Union treaties or other acts of EU law by Member States, there is no other option than to bring the case to the Court of Justice of the European Union Indeed, according to **Article 344 TFEU** which states that “The Council and the Commission shall ensure the consistency of activities”.

3.4.1 case analysis: Commission v Greece⁹⁴

Following complaints, questions and reports on the existence of illegal and uncontrolled landfills in Greece as well as failure to comply to with Directive 75/442, the commission

⁸⁸ Craige P and De Burca G, ‘EU law: texts, cases and materials (7th edn, OUP 2020) 57-58

⁸⁹ Directive 2000/78/EC, available @ <https://data.europa.eu/eli/dor/2000/78/oj>

⁹⁰ Peers Steve, ‘EU law analysis: no more fluttering/ fleeting line between discrimination in employment and rights to freedom of expression. CJEU judgment in NH v Lenford available @ <https://eulawanlysis.blogspot.com>

⁹¹ Costa v E.N.E.L 1964

⁹² Treaty of the Functioning of the European Union

⁹³ Ibid 260(2)

⁹⁴ Commission v Greece

*initiated the procedure for failure to fulfill obligations under **Article 258 TFEU**⁹⁵ against Greece on 26th November 2003. The Hellenic Republic Did not dispute these allegations, rather, they contended that the closure of illegal and uncontrolled landfills was scheduled to take place sometime in 2008, a period which was to occur after the deadline set by the commission.*

The courts held that the action brought against The Hellenic republic for failure to fulfil was well founded, further stating that by failing to take the necessary measures to ensure compliance with the articles of the directive constituted a failure to comply with obligations under that directive. The court on a second referral, imposed a financial penalty on the Hellenic republic to be paid until compliance was achieved.⁹⁶

3.4.2 Significance of the case

This case involves a series of proceeding against Greece and their significance is that they have been a number of legal actions that have been initiated against Greece by the commission for failure to comply with EU law, thereby showing the significance of EU directives, these proceeding also show the supremacy of law of the European Union over national law⁹⁷. They have been used as a referral by the European Court of Justice (ECJ) to make sure Greece complies also to show how Member States can be held accountable for failing to comply with previous rulings, subjecting them to financial sanctions.

This case therefore, highlights the financial deterrence of monetary penalties, forcing states to comply because noncompliance becomes financially irrational⁹⁸. This case also highlights constant noncompliance damages the reputation of the state, as well as its standing with European community and the commission's ability supervise the courts shows that judgments are not ignored⁹⁹. The ECJ wields coercive authority unlike the ICJ that relies on the United Nations Security Council for enforcement.

3.5 comparative reflections

⁹⁵ Treaty of the functioning of the European Union

⁹⁶ Commission v Greece

⁹⁷ Primacy of EU law precedence, supremacy, available @ <https://eur-lex.europa.eu/>

⁹⁸ Craige P and De Burca G, ' EU law: texts, cases and materials (7th edn, OUP 2020)

⁹⁹ Karen J Alter, ' The European Court,s political power (OUP 2009) 112

The cases of *NH v Lenford*¹⁰⁰ and *Commission v Greece*¹⁰¹ quite alright' represent totally different areas of EU law the former concerns individual rights and non-discrimination of employees in their work places, while the latter shows how a Member State's failure to comply to the its obligation under EU law and to the rulings of the commission can be consequential¹⁰² however, these cases are also similar in that they both highlight how the European Commission, or any interested party may place reliance on EU law and bring an action before the Court of Justice against a party that is in violation of their obligation under the treaty of the EU, this ensures Member States, as shown in the case of *commission v Greece*¹⁰³ as well as individual comply with their duties under the EU as per the case of *NH v Lenford*¹⁰⁴

These cases also uphold the principle of the supremacy of EU law, this imply means that national law or circumstances like opposition from the public, as shown in Greece case, or freedom of expression as shown in the in *NH v Lenford* cannot be used to justify a failure to comply with clear EU requirements.¹⁰⁵

These cases also show the role of the European court of justice in interpreting EU law and making its application is uniform across Member States, either through a preliminary ruling procedure or an infringement proceeding, therefore the success of the European court of Justice comes from the structures of these mechanisms. Decentralized litigation helps to ensure everyday enforcement by individuals and national courts¹⁰⁶, while the centralized system which involves infringement proceedings like financial sanctions compels a systematic compliance¹⁰⁷ the ICJ on the other hand lacks direct access for

¹⁰⁰ *NH v Lenford*

¹⁰¹ *Commission v Greece*

¹⁰² The NH Case: On the "Wings of Words" in EU Anti-discrimination Law available @ <https://www.europeanpapers.eu/europeanforum/nh-case-wings-of-words-in-eu-antidiscrimination-law> accessed 23rd September 2025

¹⁰³ *Commission v Greece*

¹⁰⁴ The NH Case: On the "Wings of Words" in EU Anti-discrimination Law available @ <https://www.europeanpapers.eu/europeanforum/nh-case-wings-of-words-in-eu-antidiscrimination-law> accessed 23rd September 2025

¹⁰⁵ *ibid*

¹⁰⁶ *ibid*

¹⁰⁷ *Commission v Greece*

individuals and the ability to impose financial sanctions ergo the comparatively lower compliance rate.

3.6 Conclusion

This chapter had analyzed how the ECJ enforces the law of the European Union and what factors make the said enforcement successful. Through the case of *Lenford*, it illustrated how the concepts of direct effect and supremacy of EU law empower individuals and national courts to act as decentralized enforcers and through the case of *Commission v Greece*, it showed how the imposing of financial sanctions on members who do not comply. This two-system structure of enforcement mixed with the integration of political and economic forces of the EU, makes the European Court of Justice one of the most effective international courts to exist²⁷.

CHAPTER FOUR

TRANSFERRABLE LESSONS FROM THE EUROPEAN COURT OF JUSTICE THAT CAN INHANCE ENFORCEMENT OF INTERNATIONAL COURT OF JUSTICE JUDGEMENTS

4.1 INTRODUCTION

The previous chapters have illustrated how the International Court of Justice struggles with enforcement of its judgments due to its lack of coercive sanctioning powers and decentralized compliance¹⁰⁸. The effectiveness of any international court does not only depend on the quality of its jurisprudence but on the rate at which its rulings are implemented and enforced. The ICJ has a special role as the principal judicial organ of the United Nations, filling a central place in the International legal system through adjudication of disputes between states and interpreting international laws as **per article 38, ICJ statute**¹⁰⁹, yet it has repeatedly failed to secure compliance of its judgments because of its institutional design, the court lacks a standing mechanism to ensure obedience of its rulings.

According to **Article 94(2) UN Charter**¹¹⁰, if a state fails to comply with their obligation under the UN, the aggrieved state may bring the case before the Security Council. However, this dependence on a recourse to the United Nations Security Council has greatly contributed to the failure of the court to secure compliance because countries like the USA and Russia are part of the permanent five members of the Security Council and use their Veto powers to evade Judgments¹¹¹.

As a result. Enforcement has been subjected to the political will of politically stronger states as seen in the cases of **Nicaragua v United States**¹¹² and **Ukraine v Russia**¹¹³, where, even though the courts ordered the United States and Russia to cease all military activities in Nicaragua and Ukraine, these two states, having the power to Veto Decisions,

¹⁰⁸ Yuval Shany, 'Assessing the effectiveness of International Courts (Oxford University Press 2014) 42

¹⁰⁹ Statute of the International Court of Justice

¹¹⁰ United Nations Charter

¹¹¹ Rosalyn Higgins, 'The Development of International Law through the Political organs of the United Nations (Oxford University Press 1963) 99

¹¹² Nicaragua v USA

¹¹³ Ukraine v Russia [2022]

used that power to evade compliance¹¹⁴. These cases illustrate how, even though states can be held accountable under international law for aggression and violation of human rights, enforcement of the Judgments still remains weak as a result of privileges like veto power of the permanent five members in the UN Security Council because members use that power to evade compliance, thereby undermining international law. The cases also highlight the challenges that come with proving the control of armed groups by states, the importance of upholding principles like sovereignty, and the impact of judicial decisions, with the Nicaragua case establishing a precedent for prohibiting interference by one state in the territory of another¹¹⁵. This shows the structural weakness of the ICJ because the court is influenced by political and diplomatic factors rather than legal compulsion¹¹⁶.

According to **Article 36(1)**¹¹⁷ ICJ Statute, provides that the Court has jurisdiction over all cases brought before it. **Article 36(2)**¹¹⁸ further states that any state at any time may declare that they recognize the jurisdiction of the court ipso facto. Consent-based jurisdiction refers to the principle where the court's authority over a case is dependent on the consent of the parties involved, as opposed to being a matter of right or law¹¹⁹.

This has constantly been shown in international law, where states must give their consent in order for the international courts of justice to preside over a matter. Consent can be implied, through the creation of treaties or thorough declaration of the recognition of the court's compulsory jurisdiction as per **Article 36(2), ICJ statute**¹²⁰. However, that being the case, the Court operates in a state-centric legal community, where sovereignty and consent remain paramount thereby limiting the court's reach, a good example is the case of **DRC v Rwanda**¹²¹, where the latter simply withdrew its declaration under **Article 36(2)**¹²² and the court could not proceed to settle the dispute, highlighting how states consent

¹¹⁴Nicaragua v USA

¹¹⁵ International Court of Justice preliminary decision in Ukraine v Russia (2022) available @ <https://www.europarl.europa.eu/>

¹¹⁶ Yuvul Shany, 'The Effectiveness of International Courts (OUP 2014) 42

¹¹⁷ Statutes of the International Court of Justice

¹¹⁸ ibid 36(2)

¹¹⁹ Alexander Orakhelashvili, 'Consensual Principle: International courts and tribunals, procedure — Consent to jurisdiction available @ <https://opil.ouplaw.com/> accessed 1st October 2025

¹²⁰ Statute of the international court of justice

¹²¹ DRC v Rwanda

¹²² Statute of the international court of justice

remains a jurisdictional Barrier, allowing states to treat the ICJ judgments as recommendations rather than binding obligations¹²³.

The ECJ on the other hand has proven to be more consistent in securing compliance of its judgments, it has in its arsenal, the tools to ensure that compliance of its rulings is achieved without placing reliance on political enforcement¹²⁴, this has been achieved through a combination of a decentralized system on one hand, which involves direct effect and individual rights, illustrated in **NH v Lenford**¹²⁵ where an individual was able to evoke the Law of the UN in a domestic court, thereby establishing a new legal order where both member states and individuals are subjects of rights and obligation and a Centralized system on the other, which emphasizes on the doctrine of the supremacy of the Law of the European Union, as shown in the case of **Costa v ENEL**¹²⁶ and was further Highlighted in the case of **Commission v Greece**¹²⁷ where the European Commission imposed a financial sanction of Greece for failure to comply to the law of the European Union.

This chapter identifies and analyses transferrable lessons from the ECJ that can be - Mutatis Mutandis - adapted and incorporated into the ICJ to enhance the binding force of its judgments all the while recognizing its unique character as the global court of sovereign states.

4.2 KEY ECJ MECHANISMS WORTH ADAPTING

4.2.1 Decentralized enforcement and individual rights

The biggest contribution to the success of the ECJ is rooted in its concept of direct effect, a move which allows for individuals to invoke EU law in national courts¹²⁸. Decentralized enforcement in the European Union is solely achieved through national courts applying EU law, this system relies on synchronization between national courts and the European

¹²³ Alain Pellet, 'The International Court of Justice and the Effectiveness of International Law, Antonio Cassese (ed), *Realizing Utopia: The future of International Law* (OUP 2012)439

¹²⁴ Karen J Alter, 'The European Court's Powers (OUP 2009) 6

¹²⁵ NH v Associazione Avvocatura per Diritti LGBTI- Rete Lenford (2020)

¹²⁶ Costa v E.N.E.L

¹²⁷ Commission v Greece

¹²⁸ Van Gend en Loos v Nederlandse Administratie der Belastingen [1963]

Union judicial system. This is achieved through preliminary procedures, where national courts can seek guidance from the European Court of Justice on how to interpret the law of the EU¹²⁹. This system ensures that the application of EU law is consistent across all member states, as national courts are empowered to apply it directly, although they cannot annul European Union acts themselves. This principle provides several modes of enforcement throughout all member states making it impossible for states to evade judgment as the Law of the United Nations is embedded in domestic courts¹³⁰.

- Transferrable Lessons: Although full individual standing in the ICJ may be politically unrealistic because the ICJ is a court that hears cases by sovereign states, the statute of the international court of justice could be amended to provide for at least a limited amount of access for non-state actors such as nongovernmental organizations to commence advisory or Quasi- contentious proceedings¹³¹.
- The ICJ could also include a protocol to **Article 34 Statute of the ICJ**¹³², which mandates the court to request public international organizations to deliver information relevant to cases, that could permit individuals and groups to submit Amicus Curiae beliefs with enforceable effects thereby increasing the pressure to comply¹³³.

Such reforms would mirror the ECJ's systems of decentralization, making states answerable not only to each other but to affected individuals.

4.2.2 Monitoring and Follow up procedures

¹²⁹ Carolin Hübner, *The decentralized enforcement of European law*, 'The Official Blog of the Journal of European Public Policy available @ <http://www.jepp-online.com/2018/11/the-decentralized-enforcement-of-european-law> accessed 19th October 2025

¹³⁰ Paul Craig and Grainne De Burca, *EU Law, text, cases and materials* (7th edn, oxford university press 2020) 189

¹³¹ Yuval Shany, 'Assessing the Effectiveness of the International Courts (oxford university press 2014) 98

¹³² Statute of the Intenational Court of Justice

¹³³ Yuval Shany, 'assessing the effectiveness of International Courts (Oxford University Press 2014) 101

According to **Article 260, TFEU**¹³⁴, the European Commission can impose infringement proceedings on states who repeatedly fail to comply with judgments. The commission has the duty to ensure that the judgments of the ECJ are supervised and complied with¹³⁵

- Transferrable Lessons: the ICJ could use a permanent body to review compliance, in its framework, empowered to track how states implement judgments and report to the United Nations General Assembly and Security Council¹³⁶. They could call for compliance meetings annually, where respondent states could file in progress reports, a strategy that could be like the periodic review of human rights treaties¹³⁷.
- Transferrable lessons: the courts could enlist national courts to carry out day to day monitoring of states. Regular and systematic monitoring would show that the court is committed to ensuring its decisions have an effect in the real world as opposed to just being theoretical. This would build credibility with the international environment as well as individual states, thereby fueling greater respect and appreciation for the court's authority and judgments¹³⁸.

This strategy could be used to replace the current politically charged reliance on the UN security council under **Article 94(2), UN Charter**¹³⁹, a move which is subject to defiance by politically stronger states to a system where compliance is monitored more closely. Furthermore, these monitoring and infringement procedures, like those used in the European Union would create a clear and defined process that will be used to deal with non-compliant states. This will then shift enforcement away from the current existing system, where states often only comply half of the time with provisional measures, especially in highly political cases, to a more consistent and uniform mode of compliance¹⁴⁰.

¹³⁴ Treaty of the functioning of the European Union

¹³⁵ Craig and De Burca, , EU Law, text, cases and materials (7th edn, oxford university press 2020) '316

¹³⁶ Yuval Shany, 'Assessing the Effectiveness of International Courts (OUP 2014)122

¹³⁷ *ibid.* 124

¹³⁸ *ibid.*

¹³⁹ United Nations Charter

¹⁴⁰ Gar Yein Ng, Marco Velicogna and Cristina Dallara , '*monitoring and Evaluation of Courts Activities and Performance*; Evaluation Of Courts And Judicial Systems available @ [Monitoring and Evaluation of Courts Activities and Performance](#) accessed 20th October 2025

4.2.3 Sanctions and financial penalties

As shown in the case of the *Commission v Greece*¹⁴¹, the ECJ has the power to impose lump sum and periodic penalties creates tangible economic disincentives for states who do not comply.

- Transferrable Lessons: The ICJ could propose that the UN General Assembly Adopt a system of automatic financial penalties, imposed on states who fail to implement the court's rulings within the time stipulated¹⁴². These penalties can be effected through targeted economic measures that the Security Council could authorize and counter balancing budget allocations¹⁴³.
- The provision for formal infringement procedures and the imposition as lump sums or penalty payments, which have been seen in the system of the EU could have a persuasive and compelling effect, encouraging states to comply voluntarily to avoid financial sanctions¹⁴⁴.

Essentially, even though the ICJ's judgment are binding and carry significant legal weight, a robust set of monitoring and infringement procedures would provide the practical tools necessary to convert its rulings into assured action and not just mere opinions , thereby solidifying its role in maintaining global peace and security. Even though it is politically sensitive, the ICJ could benefit from the prospect of fines because states will be forced to comply to avoid financial deterrence¹⁴⁵.

4.2.4 Doctrine of Supremacy and Systematic interpretation

The ECJ's insistence on making the law of the EU the supreme law ensures that national law does not override the rulings of the Court, this concept has been illustrated in the

¹⁴¹ Commission v Greece

¹⁴² Yuvul Shany, 'Assessing the effectiveness of International Courts (OUP 2014) 125- 127

¹⁴³ *ibid.* 130

¹⁴⁴ Gar Yein Ng, Marco Velicogna and Cristina Dallara , '*monitoring and Evaluation of Courts Activities and Performance*; Evaluation Of Courts And Judicial Systems available @ [Monitoring and Evaluation of Courts Activities and Performance](#) accessed 20th October 2025

¹⁴⁵ European commission: Infringement procedure available @ <https://commission.europa.eu/law/application-eu-law>

landmark case of *Costa v ENEL*, which coined the doctrine of the supremacy of the law of the European Union.

- Transferrable Lessons: although the ICJ cannot supremacy over National Law, it can call for stronger Interpretive Presumptions meaning the National Courts presume conformity with the Judgments of the ICJ when Interpreting International obligations that have already been accepted by their states¹⁴⁶. Member States could adopt a resolution Which Affirms a Duty of consistently interpreting National in line with International Law and the Judgments of the ICJ¹⁴⁷.

Therefore, the doctrine of the supremacy of international law in the ICJ can help to ensures that states do not use their national law to evade international obligations, thus promoting an effective and binding nature of global legal principles in the courts system ¹⁴⁸. Systematic interpretation on the other hand can promote uniformity, coherence, and stability in international law by asking that a treaty be interpreted in the context of the larger legal system¹⁴⁹. This Adaptation could help build the expectation that the rulings of the ICJ carry Quasi Constitutional weight in the Domestic Legal system.

4.3 STRUCTURAL AND POLITICAL CONSIDERATIONS

The success of the ECJ is rooted in its political and economic Union. This condition, however, has no global standing as it is not replicated by globally. Which is why the transferring of this mechanism to the ICJ requires precise consideration to the realities of state sovereignty as well as the creation of a diverse legal system¹⁵⁰. The said reforms must. However, be based on incentive, rather than coercion. In order to achieve this, the ICJ must follow a number of political steps such as, building coalition among states that are like minded in order to introduce reforms into the United Nations General Assembly¹⁵¹.

¹⁴⁶ Yuval Shany, 'Assessing the Effectiveness of International courts (OUP 2014) 132-134

¹⁴⁷ *ibid.* 135

¹⁴⁸ Leonardo Nemer Caldeira Brant, 'Finality of Judgments: International Court of Justice (ICJ), available @ <https://opil.ouplaw.com/display/1> accessed 25th October 2025

¹⁴⁹ *Ibid*, Panos Merkouris, 'Principle of Systemic Integration

¹⁵⁰ Karen J Alter, 'The European Court's Political Power (OUP 2009) 140

¹⁵¹ *ibid.*145

The ICJ could also introduce reforms to strengthen the ability of developing countries to perform functions thus encouraging them to implement ICJ judgments without resistance¹⁵². The ICJ could also push for influential states and societies to promote a change in the social norms within the international Society in order to frame compliance of the Court's ruling as a measure of responsible citizenship¹⁵³.

4.4 COMPARATIVE CASE REFLECTIONS

The comparison between the case of *NH v Lenford*¹⁵⁴ and *DRC v Rwanda*¹⁵⁵ are that in the former, an individual invoked the Law of the EU in a domestic court and the Jurisdiction of the ECJ was not challenged due to the doctrine of the Supremacy of the Law of the EU and the court was able to secure compliance. Whereas in the latter, Rwanda simply refused to recognize the Jurisdiction of the court. This move not only undermined the effectiveness of international law, but also illustrated how state sovereignty can hinder the successful operation of the ICJ all the while stepping on individual rights as a result of state sovereignty taking precedent over international law¹⁵⁶

The comparison between *Commission v Greece*¹⁵⁷ and *Ukraine v Russia*¹⁵⁸, is that in the former, in order to secure compliance, the ECJ imposed a financial sanction on Greece, forcing it to comply rather than to suffer financial Detriment. In the Ukraine case however, although the decision of the ICJ was binding, Russia did not comply because the ICJ lacked the tools to ensure compliance by Russia, compelling it to seek enforcement from the UN Security Council, a move that allowed Russia to evade punishment due to its power to veto decisions. This move not only undermined the

¹⁵² Yuval Shany, 'Assessing the Effectiveness of International Courts (oxford University Press 2014) 148-149

¹⁵³ Karen J Alter, 'The European Court's Political Power (OUP 2009) 152

¹⁵⁴ NH v Associazione Avvocature per i Diritti LGBTI- Rete Lenford

¹⁵⁵ DRC v Rwanda [2006]

¹⁵⁶ The International Court of Justice, 'summary of the judgement of 3rd February 2009, available @ <https://www.icj-cij.org>

¹⁵⁷ Commission v Greece

¹⁵⁸ Ukraine v Russia [2022]

effectiveness of international law, but it also showed political interests can hinder the successful operation of international courts, thereby, highlighting the enforcement gap¹⁵⁹.

4.5 CONCLUSION

In the ECJ the successful enforcement of International Law lies solely on the synchronization of legal doctrines, institutional structure and political will. The ICJ however, operates in a more mellow and reluctant international environment, it can therefore adapt key ECJ mechanisms like, decentralized enforcement, systematic monitoring, financial disincentives and domestic integration in its framework in order to strengthen the weight of its judgments. This adaptation can take the ICJ from a court whose decisions risk being merely declaratory to one whose rulings command true compliance.

¹⁵⁹ Yuval Shany, 'Assessing the Effectiveness of International Courts (OUP 2014) 160

CHAPTER FIVE

5.1 INTRODUCTION

This chapter seeks to summarize and interpret the information gathered as well as the findings made in this research by providing a combination and/or synchronization the theoretical and comparative examinations undertaken in the previous chapters. The purpose of this research was to analyze the institutional framework of the International Court of Justice and to decipher why enforcement of this Court's rulings remains weak despite its legal Authority as the principle judicial organ of the UN, imposed and enshrined in **Article 94, UN Charter**¹⁶⁰. The European court of justice on the other hand has proven more effective when it comes to enforcement of its rulings, successfully securing compliance of member states. This is due to its adaptation within every aspect of the European Union's institutional and legal framework¹⁶¹

This chapter further endeavors to highlight what lessons from the ECJ are transferrable and can be integrated into the framework of the ICJ, to help strengthen its enforcement mechanism.

5.2 SUMMARY OF CHAPTERS

5.2.1 CHAPTER ONE

¹⁶⁰ United Nations Charter

¹⁶¹ Paul Craige and Grainne De Burca, EU Law, Texts, Cases and Materials (7th edn, OUP 2020) 225 - 314

Chapter one provided a background of the two courts discussed in this research. The International Court of Justice, also known as the World Court, which was established in 1945, under **Article 92, Charter of the United Nations**¹⁶² which states that the ICJ shall be the principal judicial organ of the United Nations and the ECJ which was established in 1952 under the Court of justice of the European Union, its duty was to interpret and the law of the EU and to hear disputes between states. The aim of the ICJ was to provide peaceful means for resolving disputes between states, it has however failed to secure compliance of its decisions especially in politically sensitive cases, this is because **Article 94(2). UN Charter**¹⁶³, provides that parties may have a recourse to the UN Security council, this move has however been subjected to exploitation and permanent five members like Russia and the US can evade enforcement by using their powers to veto decisions as shown in the **Nicaragua case**¹⁶⁴ and further highlighted in the case of **Ukraine v Russia**¹⁶⁵. **Article 94**¹⁶⁶ of the Charter also states that the Court has jurisdiction over all cases brought before it, that hasn't however been the case because some states refuse to recognize the jurisdiction of the Court, as has been the case in the case of **DRC v Rwanda**¹⁶⁷.

This chapter also introduced the central problem, which is, the failure of the ICJ to enforce its rulings. Although the decisions of the ICJ are binding, the court has faced Challenges securing compliance and this has brought about a legal gap in the law. The chapter then when on to state the objectives of this research, which included examining the current framework of the ICJ and identifying its weaknesses, examining the current enforcement framework of the ECJ and the factors behind its success and identifying what lesson from the ECJ can be Transferred into in ICJ's Framework so as to enhance its enforcement mechanism so as to bridge this Gap.

5.2.2 CHAPTER TWO

¹⁶² United Nations Charter 1945

¹⁶³ United Nations Charter

¹⁶⁴ Nicaragua v USA

¹⁶⁵ Ukraine v Russia

¹⁶⁶ United Nations Charter

¹⁶⁷ DRC v Rwanda

Chapter two focused on examining the current framework of the ICJ which constitutes voluntary state compliance and enforcement through the United Nations Security council. These two provisions have however proven to be futile as shown in the two cases discussed.

In the case of ***Ukraine v Russia***¹⁶⁸, the ICJ ordered Russia to cease all military activities in Ukraine, but the former used its veto power to evade compliance, ergo continuing to brutalize Ukraine, this shows how states that are part of the permanent five can use their political power to sway the Court and in the ***DRC v Rwanda***¹⁶⁹ case, Rwanda refused to recognize the jurisdiction of the court showing the unreliability of voluntary compliance by states. This chapter therefore concluded that the failure to enforce ruling by the ICJ, is not as result of weak legal thinking but rather due to court's politically influenced structure¹⁷⁰.

5.2.3 CHAPTER THREE

Chapter Three carried out an examination of the European Court of Justice, highlighting the factors that makes it able to effectively enforce its Judgments throughout the EU. The ECJ has two mechanisms that it uses to ensure compliance, the first one being a decentralized system which comprises of a direct effect and individual rights which allows individuals to invoke the law of the EU in domestic courts, this was further illustrated in the Case of ***NH v Lenford***¹⁷¹ this case shows how individual are also subjects if EU law and can act as private enforcers and shows how states that contravene the law of the EU are dis applied¹⁷².

The other mechanism is a centralized system which involves Sanctions and Penalties. The ECJ can under ***Article 260(2) TFEU***¹⁷³ impose a financial penalty on any state that does not comply with the rulings of the commission, this move has been demonstrates in

¹⁶⁸ Ukraine v Russia

¹⁶⁹ DRC v Rwanda

¹⁷⁰ J. Crawford, 'Brownlie's Principles of Public International Law (9th edn OUP 2019) 695

¹⁷¹ NH v Lenford

¹⁷² Paul Craige and De Burca, 'EU Law: cases, tests and materials (7th end OUP 2020)

¹⁷³ Treaty of the Functioning of the European Union

the Case on the *Commission v Greece*¹⁷⁴ Where the court imposed financial penalty on the Hellenic Republic due to their continuous noncompliance. These mechanisms empower the European Court to effectively secure compliance.

5.2.4 CHAPTER FOUR

This Chapter explored what lessons the ICJ could learn from the ECJ. The analysis showed that the success of the ECJ stems from its institutional independence and ability to impose sanctions for non-compliance¹⁷⁵. Although its powers are limited by State sovereignty, there are a few reforms that the ICJ can adopt, some of these being the establishment of mechanisms to monitor compliance and publicizing reports so as to show transparency. The chapter also showed how the ICJ could benefit from working together with regional courts¹⁷⁶.

5.3 GENERAL CONCLUSION

This study concludes that both these courts operate under two different settings, the ICJ operating in an environment that is subject to states sovereignty and dependence of political goodwill and the ECJ operation in a supranational environment where judgments can be enforced in national court and by individuals. It has therefore been noted that the ICJ's shortcomings a result of its political environment¹⁷⁷. Despite this, the lessons from the ECJ show the ICJ can improve its enforcement mechanism by reshaping its institutional framework through adopting certain reforms such as transparency and including provisions for non-state actors to rely on international law and encouraging state accountability through systematic reports and imposing sanctions

5.4 RECOMENDATIONS

5.4.1 Systematic check in and monitoring mechanisms

¹⁷⁴ *Commission v Greece*

¹⁷⁵ A. Arnall, *The European Union and its Court of Justice* (3rd edn, OUP 2022)

¹⁷⁶ J. Dugard, 'Enforcing Compliance with ICJ Decision (2020) 69, *Netherlands international Law Review*. Available @ <http://link.springer.com/journal/40802> Accessed 19th October 2025

¹⁷⁷ J. Crawford, *'Brownlie's Principles of Public International Law* (9th edn OUP 2019)'

The ICJ should draw from the ECJ the system of systematic check in and establish a monitoring mechanism into its framework under the general assembly that could be used to track whether states are complying with the rulings or not. This can be done periodically and, in a manner provided, like through reports from NGOs or Domestic courts who could act as friends of the court thereby taking part in Amicus Curae Beliefs which could help diversify the Court's participation in international Law cases¹⁷⁸.

5.4.2 Publication of annual reports

The courts should publish annual reports to make it more transparent, this will be seen as a show of good faith thereby, building trust between the court and states, and will help promote accountability on a diplomatic level¹⁷⁹.

5.4.3 Implementation of the doctrine of supremacy of international law

The courts should strengthen its enforcement mechanism by implementing the doctrine of the supremacy of international law to ensure that states do not use their national law to avoid international obligations. This will in turn promote an effective and binding nature of global legal norms in the ICJ's system and will promote consistency, coherence, and stability in international law by requiring that a treaty be interpreted in the context of the broader legal system.

5.4.4 Impositions of sanctions and financial penalties

Further, the ICJ's enforcement mechanisms will significantly improve compliance with its rulings by in establishing a collaborative enforcement mechanism within the United Nations, where member states could agree on defined consequences for not complying with ICJ judgments. This framework should involve economic sanctions or restrictions¹⁸⁰. The court should propose that the UN General Assembly Adopt a system

¹⁷⁸ Mara Tignino, Rafael Prado, *ESIL Reflection – The Role of Amicus Curae in the ITLOS Advisory opinion on climate change and international law*, vol 13, European Society of International Law. Available @ <https://esil-sedi.eu/esil-reflection-the-role-of-amicuscurae>

¹⁷⁹ P. Hilpold, 'The Enforcement of International Court judgements (2017) 85- 87

¹⁸⁰ The ICJ Under Pressure: Addressing The Challenges Of Modern-Day Multilateralism, available @ <https://theowp.org/reports/the-icj-under-pressure-adressing-the-challenges-of-modern-day-multilateralism> accessed 25th September 2025

of automatic financial penalties, imposed on states who fail to implement the court's rulings within the time stipulated¹⁸¹. These penalties will be effected through targeted economic measures that the Security Council could authorize and counter balancing budget allocations

5.4.5 Amendments to Article 94(2) of the United Nations Charter

The court should make some reforms to *Article 94(2) UN Charter*¹⁸². These reforms should empower the General Assembly to act when the Security Council fails to secure compliance of ICJ rulings. This must be done through the use of a permanent body to review compliance, in its framework, empowered to track how states implement judgments and report to the United Nations General Assembly and Security Council¹⁸³. They should also call for compliance meetings. This move will help curb the issue of the permanent five members using their veto power to sway the court

5.4.6 Working side by side with regional courts

The court should start working together with regional courts such as the ECJ itself or COMESA, this will make it easier for the court to encourage principles of cross enforcement¹⁸⁴. They must also provide for at least a limited amount of access for non-state actors such as nongovernmental organizations to commence advisory or Quasi-contentious proceedings¹⁸⁵.

5.4.7 Provision for individuals to rely on international law principles

The court should make a provision for individual to invoke international law principles in national courts, especially in cases where there is a violation of human rights. This move

¹⁸¹ Yuval Shany, 'Assessing the effectiveness of International Courts (OUP 2014) 125- 127

¹⁸² United Nations Charter

¹⁸³ Yuval Shany, 'Assessing the Effectiveness of International Courts (OUP 2014)122

¹⁸⁴ Z Mbazira, regional courts and human rights protection in Africa (Pretoria University Press 2022)

¹⁸⁵ Yuval Shany, 'Assessing the Effectiveness of the International Courts (oxford university press 2014) 98

in particular is currently being exercised by a number of judicial organs that allow access by natural and legal persons in matters of human right¹⁸⁶.

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¹⁸⁶ Angela Del Vecchio, 'International Courts and Tribunals, Standing, available @ <https://opil.ouplaw.com/display> accessed 30th October

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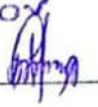

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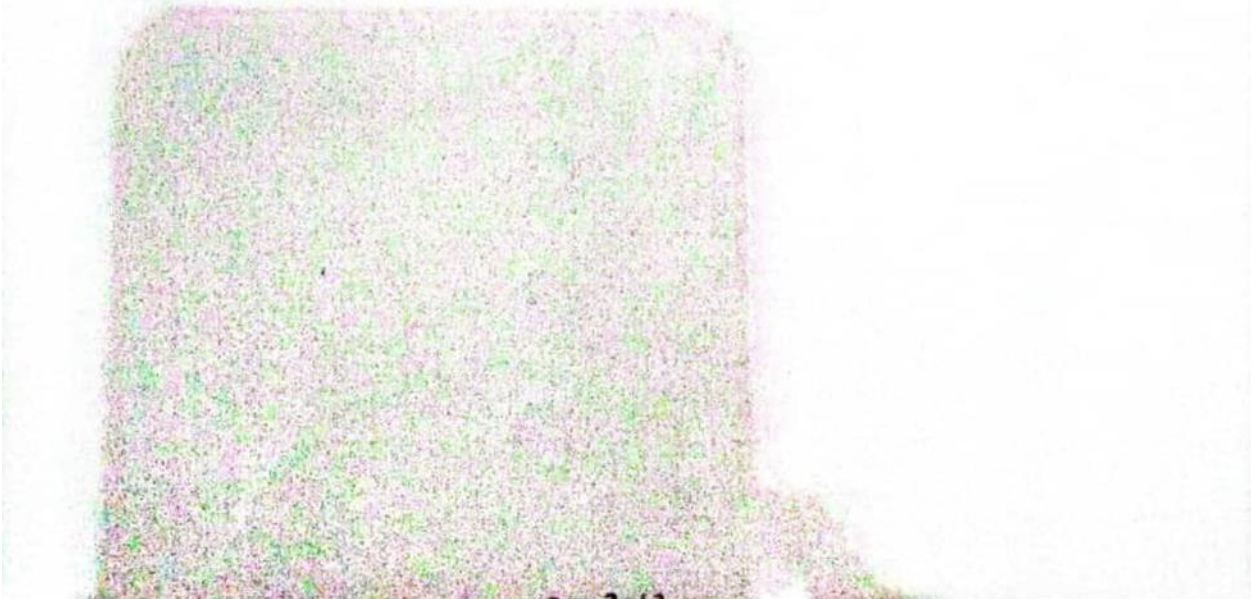
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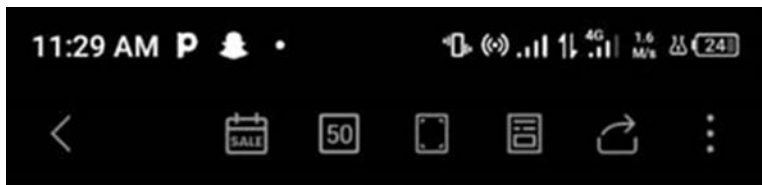
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Research Proposal	Amend structure	28 th JULY 2025 	
Chapter 1 – Introduction	Proceed	28 th JULY 2025 	
Chapter 2 –	Proceed	15 th AUGUST 2025 	
Chapter 3 –	OK	5 th SEPT 2025 	
Chapter 4 –	OK	3 rd OCT 2025 	

Chapter 5 – Conclusions & Recommendations	Amend recommendations	23 rd OCT 2025 	
Abstract, Table of Contents, Bibliography and Appendices	OK	31 st OCT 2025 	
First Draft	Done	31 st OCT 2025 	
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ECOMMENDATIONS ACKNOWLEDGEMENTS First and foremost, I take this
privilege to appreciate my heavenly father, who is God the
Almighty, because he has been very faithful and has brought
me this far, which I would not have done but for his
Grace and for this reason I will forever be grateful and



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praise him Secondly, I would like to thank my Supervisor, Mr
Nyambe, who guided me from the beginning to the very end of my dissertation.

