



## UvA-DARE (Digital Academic Repository)

### Challenges and opportunities for judicial protection of human rights against decisions of the United Nations Security Council

Hollenberg, S.J.

**Publication date**  
2013

[Link to publication](#)

#### **Citation for published version (APA):**

Hollenberg, S. J. (2013). *Challenges and opportunities for judicial protection of human rights against decisions of the United Nations Security Council*. [Thesis, fully internal, Universiteit van Amsterdam].

#### **General rights**

It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content license (like Creative Commons).

#### **Disclaimer/Complaints regulations**

If you believe that digital publication of certain material infringes any of your rights or (privacy) interests, please let the Library know, stating your reasons. In case of a legitimate complaint, the Library will make the material inaccessible and/or remove it from the website. Please Ask the Library: <https://uba.uva.nl/en/contact>, or a letter to: Library of the University of Amsterdam, Secretariat, Singel 425, 1012 WP Amsterdam, The Netherlands. You will be contacted as soon as possible.

## **Case Law**

### **PCIJ**

*Jaworzina (Poland v Czechoslovakia)* [1923] PCIJ Rep Series B No 8

### **ICJ**

*Legal Consequences for States of the Continued Presence of South Africa in Namibia* [1971] ICJ Rep 53

*Avena and Other Mexican Nationals (Mexico v. United States of America)* [2004] ICJ Rep 12

*Jurisdictional Immunities of the State (Germany v. Italy)* [2012] ICJ Rep (not yet reported)

### **ICTY / ICTR**

*Prosecutor v Dusko Tadic (Jurisdiction)* IT-94-1-AR72

*Prosecutor v Tihomir Blaskic (Judgement on the Request of the Republic of Croatia)* ICTY-95-14-AR108 bis

*Barayagwiza v. Prosecutor (Decision, and Decision (Prosecutor's Request for Review or Reconsideration))* ICTR-97-19-AR72

*Prosecutor v Slobodan Milosevic (Decision on Preliminary Motions)* IT-02-52

*Milan Lukic and Sredoje Lukic (Decision on Referral of Case Pursuant to Rule 11 bis)* IT-98 32/1-PT

### **ECtHR**

*Golder v The United Kingdom* [1975] no. 4451/70, (1979-80) 1 EHRR 524

*Klass and Others v Germany* [1978] no. 5029/71, (1979-80) 2 EHRR 214

*Sunday Times v The United Kingdom* [1979] no. 6538/74, (1979- 80) 2 EHRR 245

*Sporrong and Lönnroth v Sweden* [1982] no. 7151/75 and 7152/75, (1983) 5 EHRR 35

*AGOSI v The United Kingdom* [1986] no. 9118/80, Series A no 108

*Soering v The United Kingdom* [1989] no. 14038/88, (1989) 11 EHRR 439

*Kostovski v The Netherlands* [1989] no. 11454/85, (1990) 12 EHRR 434

*Holy Monasteries v Greece* [1994] no. 13092/87 and 13984/88, (1995), 20 EHRR 1

*Chahal v The United Kingdom* [1996] no. 22414/93 (1997) 23 EHRR 413  
*Doorson v The Netherlands* [1996] no. 20524/92, (1996) 22 EHRR 330  
*Tinnelly & Sons Ltd and Others and Mc Elduff and Others v The United Kingdom* [1998] no. 20390/92 and 21322/92, (1999) 27 EHRR 249  
*Waite and Kennedy v Germany* [1999] no. 26083/94, (2000) 30 EHRR 261  
*Naletilic v Croatia* [2000] no. 51891/99, (2000) 29 EHRR CD219  
*Al-Adsani v United Kingdom* [2001] no. 35763/97, (2002) 34 EHRR 11  
*Milosevic v The Netherlands* [2002] no. 77631/01  
*Segi and Others v 15 states of the European Union* [2002] no. 6422/02, 9916/02, Reports 2002-V  
*Bosphorus Hava Yollari Turizm ve Ticaret Anonim Sirketi v Ireland* [2005] no. 45036/98, (2006) 42 EHRR 1  
*WOS v Poland* [2006] no. 22860/02, (2007) 45 EHRR 28  
*Behrami v France / Saramati v France, Germany and Norway* [2007] no. 71412/01 and 78166/01, (2007) 45 EHRR SE10  
*Beric and others v Bosnia and Herzegovina* [2007] no. 36357/04 and others, (2008) 46 EHRR SE6  
*J.A. Pye (Oxford) Ltd. and J.A. Pye (Oxford Land Ltd.) v United Kingdom* [2007] no. 44302/02, (2008) 46 EHRR 45  
*Boivin v 34 State Members of the Council of Europe* [2008] no. 73250/01, Reports 2008  
*Connolly v 15 State Members of the European Union* [2008] no. 73274/01  
*Kalinic and Bilbija v Bosnia and Herzegovina* [2008] no. 45541/04 and 16587/07  
*A and Others v The United Kingdom* [2009] no. 3455/05, (2009) 49 EHRR 29  
*Blagojevic v The Netherlands* [2009] no. 49032/07  
*Galic v The Netherlands* [2009] no. 22617/07  
*Cooperatieve Producentenorganisatie van de Nederlandse Kokkelvisserij v The Netherlands* [2009] no. 13645/05, (2009) 48 EHRR SE18  
*Gasparini v Italy and Belgium* [2009] no. 10750/03  
*Al-Jedda v The United Kingdom* [2011] no. 27021/08, (2011) 53 EHRR 23

## **EComHR**

*M & Co v Germany* [1990] no. 13258/87, 64 DR 138

## CJEU

Case 26/62 *Van Gend en Loos* [1963] ECR-00001

Case 6/64 *Costa / ENEL* [1964] ECR-01201

Case 50/76 *Amsterdam Bulb BV v Produktschap voor Siergewassen* [1977] ECR-00137

Case 98/78 *Racke* [1979] ECR-00069

Case C-367/89 *Criminal proceedings against Aimé Richardt and Les Accessoires Scientifiques SNC*. [1991] ECR I-04621

Case C-16/90 *Nölle* [1991] ECR I-05163

Case C-84/95 *Bosphorus Hava Yollari Turizm ve Ticaret AS v Minister for Transport, Energy and Communications and others* [1996] ECR I-03953

Case C-124/95 *The Queen, ex parte Centro-Com Srl v HM Treasury and Bank of England* [1997] ECR-00081

Case C-177/95 *Ebony Maritime SA and Loten Navigation Co. Ltd v Prefetto della Provincia di Brindisi and others* [1997] ECR I-01111

Case T-184/95 *Dorsch Consult Ingenieurgesellschaft mbH v Council and Commission* [1998] ECR II-00667

Case T-315/01 *Yassin Abdullah Kadi v Council of the European Union and Commission of the European Communities (Kadi I)* [2005] ECR II-03649

Case T-306/01 *Yusuf and Al Barakaat International Foundation v. Council and Commission* [2005] ECR II-03353

Case T-253/02 *Chafiq Ayadi v Council of the European Union* [2006] ECR II-02139

Case T-228/02 *Organisation des Modjahedines du peuple d'Iran v Council of the European Union (OMPI)* [2006] ECR II-04665

Case T-49/04 *Faraj Hassan v Council of the European Union and Commission of the European Communities* [2006] ECR II-00052

Case C-326/05 P *Industrias Químicas del Vallés v Commission* [2007] ECR I-06557

Case C-525/04 P *Spain v Lenzing* [2007] ECR I-09947

Case C-177/06 *Möllendorf and Möllendorf-Niehuus* [2007] ECR I-08361

Case T-47/03 *Sison v Council of the European Union* [2007] ECR II-00073

Case T-256/07 *People's Mojahedin Organization of Iran v Council of the European Union (PMOI I)* [2008] ECR II-03019

Case T-284/08 *People's Mojahedin Organization of Iran v Council of the European Union (PMOI II)* [2008] ECR II-03487

Case C-402/05 P and C-415/05 P *Yassin Abdullah Kadi and Al Barakaat International Foundation v Council and Commission (Kadi I)* [2008] ECR I-06351

Case T-318/01 *Omar Mohammed Othman v Council and Commission* [2009] ECR II-01627

Case C-550/09 *E and F* [2010] ECR I-06213

Case T-85/09 *Kadi v European Commission (Kadi II)* [2010] ECR II-05177

Case C-340/08 *M and Others v HM Treasury* [2010] ECR I-03913

Case T-181/08 *Pye Phyoo Tay Za v Council* [2010] ECR II-01965

Case C-548/09 P *Bank Melli Iran v Council of the European Union* [2011] ECR I-00000

Case C-27/09 P *French Republic v People's Mojahedin Organization of Iran* [2011] ECR I-00000 (*PMOI III*)

#### **Advocate General**

Case C-84/95 *Bosphorus (Opinion of Advocate General Jacobs)* [1996] ECR I-03956

Case C-340/08 *M (FC) and Others v HM Treasury (Opinion of Advocate General Mengozzi)* [2010] ECR I-03913

Case C-117/06 *Möllendorf (Opinion of Advocate General Mengozzi)* [2007] ECR I-08364

Case C-402/05 P *Kadi and Al Barakaat (Opinion of Advocate General Poiares Maduro)* [2008] ECR I-06351

#### **Argentina**

*Re International Arrest Warrant (Lukic), Decision on arrest, surrender and extradition* [2006] Case No 11807/05; ILDC 1083 (AR 2006)

#### **Australia**

*Bradley v Commonwealth of Australia and the Postmaster-General* (1973) 128 CLR 557; 1972 WL 38016 (HCA)

#### **Bosnia and Herzegovina**

*Bilbija et al v Bosnia and Herzegovina* [2006] AP-953/05

*Abduladhim Maktouf* [2007] AP-1785/06

## **Canada**

*Abousfian Abdelrazik v The Minister of Foreign Affairs* 2009 FC 580; ILDC 1332 (CA 2009)

## **Croatia**

*Croatia v Naletilic-Tuta* [1999] IKz 690/1999-4; ILDC 384 (HR 1999)

*Naletilic v Croatia* [1999] U-III/854/1999

*Bobetko Report, Review of Constitutionality and Legality* [2002] U-X-2271/2002; ILDC 383 (HR 2002)

## **Serbia and Montenegro**

*Constitutionality and legality of the decree on process of cooperation with the International Criminal Tribunal, Socialist Party of Serbia and ors v Federal Republic of Yugoslavia* [2001]; ILDC 29 (CSXX 2001)

## **Germany**

BVerfG, 2 BvR 1481/04 (*Görgülü*)

BVerfG, 2 BvR 460/08 (*Ngirabatware*)

## **Ireland**

*Bosphorus Hava Yollari Turizm Ve Ticaret Anonim Sirketi v Minister for Transport, Energy and Communications* [1994] 3 CMLR 464

## **Liberia**

*Urey et al v The National Transitional Government of Liberia (NTGL)* Liberia Supreme Court, 16 September 2005

## **Netherlands**

*Enerco v Minister of Economic Affairs* KG 1992/318 (*Crna Gora I*)

*Bocimar and Enerco v The Netherlands Schip en Schade (SES)* 1993/112 (*Crna Gora II*)

*Zeta Ocean Shipping v Intercor, and The Netherlands Schip en Schade (SES)* 1993/113 (*Crna Gora III*)

*Opacic v The Netherlands* No 97/742, 30 May 1997

*Milosevic v The Netherlands* KG 01/975

*OM v Stichting X (Al Haramain)* LJN: AY0279; NJF 2006/281

*HN v The Netherlands* LJN: BF0181; ZA 06-1671; ILDC 1092 (NL 2008)  
*A and Others v The Netherlands* LJN: BL1862; ILDC 1463 (NL 2010)  
*Mothers of Srebrenica v The Netherlands* LJN: BL8979; 200.022.151/01  
*The Netherlands v A and Others* LJN: BQ4781; HA ZA 09-1192  
*Nuhanovic v The Netherlands* LJN: BR5388; ILDC 1742 (NL 2011)  
*Mothers of Srebrenica v The Netherlands* LJN: BW1999; ILDC 1760 (NL 2012)  
*The Netherlands v A and Others* LJN: BX8351; ILDC 1959 (NL 2012)

### **Pakistan**

*Saeed and Others v Government of the Punjab Home Department and Others*  
[2009] No. 6208

### **Switzerland**

*Musema v Federal Office of Justice* [1997] BGE 123 II 175  
*Rukundo v Federal Office of Justice* [2001] 1A-129/2001 and 1A-130/2001/viz  
*Nada v Federal Department of Economic Affairs* [2007] 1A-45/2007  
*A v Federal Department of Economic Affairs* [2008] 1A-48/2007  
*A v Federal Department of Economic Affairs* [2008] 2A-783/2006; ILDC 1200  
(CH 2008)

### **Turkey**

*Kadi v Prime Ministry and Ministry of Foreign Affairs of Turkey* E 2006/2824, K  
2007/115; ILDC 311 (TR 2007)

### **United Kingdom**

*R (on the Application of Othman) v. Secretary of State for Work and Pensions*  
[2001] EWHC 1022 (Admin)  
*Bici v Ministry of Defence* [2004] EWHC 786 (QB); ILDC 100 (UK 2004)  
*R (on the application of Al-Jedda) v Secretary of State for Defence* [2005]  
EWHC 1809 (Admin)  
*R (on the application of Roberts) v Parole Board* [2005] UKHL 45 [2005] 2 AC  
738  
*R (on the Application of Al-Jedda) v Secretary of State for Defence* [2006]  
EWCA Civ 327

*M and Others v HM Treasury* [2006] EWHC 2328 (Admin)  
*R (on the application of Al-Jedda) v Secretary of State for Defence* [2007] UKHL 58; ILDC 832 (UK 2007)  
*Secretary of State for the Home Department v MB and AF* [2007] UKHL 46 (Control Orders I)  
*R (on the application of M and Others) v HM Treasury* [2007] EWCA Civ 173  
*A, K, M, Q, & G v HM Treasury* [2008] EWHC 869 (Admin)  
*A, K, M, Q, & G v HM Treasury* [2008] EWCA Civ 1187  
*R (on the application of M) v HM Treasury* [2008] UKHL 26  
*Secretary of State for the Home Department v AF (FC) and another* [2009] UKHL 28 (Control Orders II)  
*HAY v HM Treasury and Secretary of State for Foreign and Commonwealth Affairs* [2009] EWHC 1677 (Admin); ILDC 1367 (UK 2009)  
*Al-Jedda v Secretary of The State for Defence* [2010] EWCA Civ 758  
*HM Treasury v Ahmed and others* [2010] UKSC 2 & UKSC 5; ILDC 1533 (UK 2010)

### **United States**

*Ntakirutimana v Reno* 184 F.3d 419 (5th Cir 1999); WL 98-41597  
*Medellin v Texas* 552 US 491, 128 S Ct 1346 (2008); ILDC 947 (US 2008)  
*Kadi v Geithner* --- F.Supp2d--- (DDC 2012); WL 898778