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**Cases**

**European Court of Human Rights**

* A. and Others v. the United Kingdom [GC], no. 3455/05, par. 184, ECHR 2009.
* AGOSI v. the United Kingdom, 24 October 1986, Series A no. 108.
* Air Canada v. the United Kingdom, 5 May 1995, Series A no. 316-A.
* Airey v. Ireland, 9 October 1979, Series A no. 32.
* Al-Adsani v. the United Kingdom [GC], no. 35763/97, ECHR 2001-XI.
* Al-Jedda v. the United Kingdom [GC], no. 27021/08, ECHR 2011.
* Al-Sadoon and Mufdi v. the United Kingdom, no. 61498/08, ECHR 2010 (extracts).
* Al-Skeini and Others v. the United Kingdom [GC], no. 55721/07, ECHR 2011.
* Ammdjadi v. Germany (dec.), no. 51625/08, 9 March 2010.
* Ashingdane v. the United Kingdom, 28 May 1985, par. 59, Series A no. 93.
* Assanidze v. Georgia [GC], no. 71503/01, ECHR 2004-II.
* Axen v. Germany, 8 December 1983, Series A no. 72.
* Banković and Others v. Belgium and 16 Other Contracting States (dec.) [GC], no. 52207/99, ECHR 2001-XI.
* Beer and Regan v. Germany [GC], no. 28934/95, 18 February 1999.
* Ben El Mahi v. Denmark (dec.), no. 5853/06, ECHR 2006-XV.
* Besseau v. France, no. 73893/01, 7 March 2006.
* Bladet Tromso and Stensaas v. Norway [GC], no. 21980/93, ECHR 1999-III.
* Blagojević v. the Netherlands, (dec.), no. 49032/07, 9 June 2009.
* Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland [GC], no. 45036/98, ECHR 2005-VI.
* Buchholz v. Germany, 6 May 1981, Series A no. 42.
* Burdov v. Russia, no. 59498/00, ECHR 2002-III.
* Burghartz v. Switzerland, judgment of 22 February 1994, Series A-280-B.
* Calabro v. Italy, No. 59895/00, 21 March 2002.
* Chapman v. the United Kingdom [GC], no. 27238/95, ECHR 2001-I.
* D.D. v. France (dec.), no. 3/02, 8 November 2005
* Daoudi v. France, no. 19576/08, 3 December 2009.
* De Geouffre de la Pradelle v. France, 16 December 1992, Series A no. 253-B.
* Dombo Beheer B.V. v. the Netherlands, 27 October 1993, par. 33, Series A no. 274.
* Drozd and Janousek v. France and Spain, 26 June 1992, Series A no. 240.
* Einhorn v. France (dec.), no. 71555/01, ECHR 2001-XI.
Eskinazi and Chelouche v. Turkey (dec.), no. 14600/05, ECHR 2005-XIII (extracts).
Fayed v. the United Kingdom, 21 September 1994, Series A no. 294-B.
Galić v. the Netherlands, (dec.) no. 22617/07, 9 June 2009.
Garcia Manibardo v. Spain, no. 38695/97, ECHR 2000-II.
Gaygusuz v. Austria, 16 September 1996, par. 42, Reports of Judgments and Decisions 1996-IV.
Golder v. the United Kingdom, 21 February 1975, Series A no. 18.
Handyside v. the United Kingdom, judgment of 12 December 1976, ECHR Series A no. 24.
Harroujd v. France, no. 43631/09, 4 October 2012.
Hentrich v. France, 22 September 1994, Series A no. 296-A.
Hirsi Jamaa and Others v. Italy [GC], no. 27765/09, 23 February 2012.
Hirst v. the United Kingdom (no. 2) [GC], no. 74025/01, ECHR 2005-IX.
Huc v. Romania and Germany (dec.), no. 7269/05, 1 December 2009.
Iglesias Gil and A.U.I. v. Spain, no. 56673/00, ECHR 2003-V.
Ignačcolo-Zenide v. Romania, no. 31679/96, ECHR 2000-I.
Ignačcolo-Zenide v. Romania, no. 31679/96, par.94, ECHR 2000-I.
Ilascu and Others v. Moldova and Russia [GC], no. 48787/99, ECHR 2004-VII.
İlhan v. Turkey [GC], no. 22277/93, ECHR 2000-VII.
Ireland v. the United Kingdom, 18 January 1978, Series A no. 25.
Issa and Others v. Turkey (dec.), no. 31821/96, 30 May 2000.
Issa and Others v. Turkey, no. 31821/96, 16 November 2004.
J.A. Pye (Oxford) Ltd and J.A. Pye (Oxford) Land Ltd v. the United Kingdom [GC], no. 44302/02, ECHR 2007-III.
James and Others v. the United Kingdom, 21 February 1986, Series A no. 98.
Jasiūnienė v. Lithuania, no. 41510/98, 6 March 2003.
Johnston and Others v. Ireland, 18 December 1986, Series A no. 122.
Jovanovski v. The Former Yugoslav Republic of Macedonia, no. 31731/03, 7 January 2010.
K. v. Italy, no. 38805/97, ECHR 2004-VIII.
Karalyros and Huber v. Hungary and Greece, no. 75116/01, 6 April 2004.
Kart v. Turkey [GC], no. 8917/05, par. 79, ECHR 2009 (extracts).
Keegan v. Ireland, 26 May 1994, Series A no. 290.
König v. Germany, 28 June 1978, Series A no. 27.
Kopecký v. Slovakia [GC], no. 44912/98, ECHR 2004-IX.
Kreuz v. Poland, no. 28249/95, ECHR 2001-VI.
Krombach v. France, no. 29731/96, ECHR 2000-II.
Kroon and Others v. the Netherlands, 27 October 1994, Series A no. 297-C.
Kutić v. Croatia, no. 48778/99, ECHR 2002-II.
Lautsi v. Italy [GC], no. 30814/06, 18 March 2011.
Lithgow and Others v. the United Kingdom, 8 July 1986, Series A no. 102.
Losonci Rose and Rose v. Switzerland, no. 664/06, 9 November 2010.
Maire v. Portugal, no. 48206/99, ECHR 2003-VII.
Mamatkulov and Askarov v. Turkey [GC], nos. 46827/99 and 46951/99, ECHR 2005-I.
Markovic and Others v. Italy [GC], no. 1398/03, ECHR 2006-XIV.
Mary Green and Ajad Farhat v. Malta (dec.), no. 38797/07, 6 July 2010.
Maumousseau and Washington v. France, no. 39388/05, ECHR 2007-XIII.
McDonald v. France (dec.), no. 18648/04, 29 April 2008.
McVicar v. the United Kingdom, no. 46311/99, ECHR 2002-III.
Mentzen alias Mencena v. Latvia (dec.), no. 71074/01, 7 December 2004.
Mikulić v. Croatia, no. 53176/99, ECHR 2002-I.
Multiplex v. Croatia, no. 58112/00, 10 July 2003.
Muñoz Díaz v. Spain, no. 49151/07, 8 December 2009.
Neulinger and Shuruk v. Switzerland [GC], no. 41615/07, ECHR 2010-.
Nuutinen v. Finland, no. 32842/96, ECHR 2000-VIII.
Oliveira v. the Netherlands, no. 33129/96, ECHR 2002-IV.
Öcalan v. Turkey [GC], no. 46221/99, ECHR 2005-IV.
Osman v. the United Kingdom, 28 October 1998, Reports of Judgments and Decisions 1998-VIII.
P., C. and S. v. the United Kingdom, no. 56547/00, ECHR 2002-VI.
P.P. v. Poland, no. 8677/03, 8 January 2008.
Patrono, Cascini and Stefanelli v. Italy, no. 10180/04, 20 April 2006.
Pellegrini v. Italy, no. 30882/96, ECHR 2001-VIII.
Pini and Others v. Romania, nos. 78028/01 and 78030/01, ECHR 2004-V (extracts).
Pla and Puncernau v. Andorra, no. 69498/01, ECHR 2004-VIII.
Platform Ärzte für das Leben v. Austria, 21 June 1988, ECHR Series A no. 139.
Podkolzina v. Latvia, no. 46726/99, ECHR 2002-II.
Powell and Rayner v. the United Kingdom, judgment of 21 February 1990, Series A no. 172.
Prince Hans-Adam II of Liechtenstein v. Germany [GC], no. 42527/98, ECHR 2001-VIII.
Rasmussen v. Denmark, 28 November 1984, Series A no. 87.
Romanoczyk v. France, no. 7618/05, 18 November 2010.
Saccoccia v. Austria (dec.), no. 69917/01, 5 July 2007.
Saccoccia v. Austria, no. 69917/01, 18 December 2008.
Saccoccia v. Austria, no. 69917/01, 18 December 2008.
Sidiroopoulos and Others v. Greece, 10 July 1998, Reports of Judgments and Decisions 1998-IV.
Silver and Others v. the United Kingdom, 25 March 1983, Series A no. 61.
Slivenko v. Latvia [GC], no. 48321/99, ECHR 2003-X.
Soering v. the United Kingdom, 7 July 1989, Series A no. 161.
Steel and Morris v. the United Kingdom, no. 68416/01, ECHR 2005-II.
Stjerna v. Finland, 25 November 1994, Series A-299-B.
Stran Greek Refineries and Stratis Andreadis v. Greece, 9 December 1994, Series A no. 301-B.
Stubbings and Others v. the United Kingdom, 22 October 1996, Reports of Judgments and Decisions 1996-IV.
Sunday Times v the United Kingdom, 26 April 1979, ECHR Series A no. 30.
Swedish Engine Drivers’ Union, 6 February 1976, Series A no. 20.
Sylvester v. Austria (dec.), no. 54640/00, 9 October 2003.
Sylvester v. Austria (no. 2), no. 54640/00, 3 February 2005.
Tinnelly & Sons Ltd and Others and McElduff and Others v. the United Kingdom, 10 July 1998, Reports of Judgments and Decisions 1998-IV.
Tolstoy Miloslavsky v. the United Kingdom, 13 July 1995, Series A no. 316-B.
Von Hannover v. Germany, no. 59320/00, ECHR 2004-VI.
Von Maltzan and Others v. Germany (dec.) [GC], nos. 71916/01, 71917/01 and 10260/02, ECHR 2005-V.
Vrbica v. Croatia, no. 32540/05, 1 April 2010.
Waite and Kennedy v. Germany [GC], no. 26083/94, ECHR 1999-I.
Winterwerp v. the Netherlands, 24 October 1979, Series A no. 33.
Women On Waves and Others v. Portugal, no. 31276/05, 3 February 2009.
X and Y v. the Netherlands, 26 March 1985, ECHR Series A no. 91.
X v. Switzerland (dec.), no. 8407/78, 6 May 1980, D.R. 179.

European Commission of Human Rights
G. and E. v. Norway (dec.), no. 9278/81 & 9415/81 (joined), DR 35.
Gauthier v. Belgium (dec.), no. 12603/86, 6 March 1989.
Gill and Malone v. the Netherlands and the United Kingdom (dec.), no. 24001/94, 11 April 1996.
H v. the United Kingdom (dec.), no. 10000/82, 4 July 1983, D.R. 33.
Kirchner v. Austria (dec.), 12883/87, 14 October 1991.
Lawless v. Ireland, no. 332/57, 2 Yearbook of European Commission on Human Rights (1960).
X and Y v. the United Kingdom (dec.), no. 7229/75, 15 December 1977.

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X. v. Belgium and the Netherlands (dec.), no. 6482/74, 10 July 1975, DR 6, p. 77.


European Court of Justice
ECJ 2 April 2009, Case C-394/07, Gambazzi, ECR 2009, I-2563.
ECJ 2 October 2003, Case C-148/02, Garcia Avello, ECR 2003, I-11613.
ECJ 10 July 2003, Booker Aquaculture and Hydro Seafood, Cases C-20/00 and C-64/00, ECR 2003, I-7411.
ECJ 8 December 1987, Case C-144/86, Gubisch Maschinenfabrik/Giulio Palumbo, ECR 1987, I-4861.

CJEU 25 October 2012, Case C-133/11, Folien Ficher and Fofitec (not yet published)

International Court of Justice

Permanent Court of International Justice
PCIJ, 7 September 1927, Series A No. 10, p. 18-19 (Lotus).

England
Golubovich v Golubovich 2010] EWCA Civ 810.
Hemain v Hemain [1988] 2 FLR 388
Kuwait Airways Corp v. Iraqi Airways Co (Nos 4 and 5) [2002] 2 AC 883.
Mark v. Mark [2005] UKHL 42.
OT Africa Line Ltd v Hijazy (The Kribi) [2001] 1 Lloyd’s Report 76.
R (Ullah) v. Special Adjudicator [2004] UKHL 26
Re : X & Y (Foreign Surrogacy) [2008] EWHC 3030 (Fam).
Re J (a child) [2005] UKHL 40

France


Germany

Italy
Italian Constitutional Court 26 February 1987, Rev.crit.dr.int 1987, p. 563 (note B. Ancel).

The Netherlands
HR 7 January 2011, NJ 2011, 134
HR 26 October 1984, NJ 1985, 696.

Hof Amsterdam 10 May 2011, RN 2011, 82
Hof Amsterdam 3 May 2011, *NIPR* 2011, 295

Rb. Amsterdam 17 March 2011, *LJN* BP8070


**Switzerland**

*ATF* 134 III 467 (25 June 2008)
*ATF* 132 III 661 (14 August 2006)
*ATF* 132 III 609 (14 July 2006)
*ATF* 132 I 134 (4 May 2006)
*ATF* 131 III 511 (31 May 2005)
*ATF* 131 III 153 (22 December 2004)
*ATF* 131 II 169 (7 February 2005)
*ATF* 128 I 63 (4 March 2002)
*ATF* 126 III 327 (4 July 2000)
*ATF* 126 III 249 (28 April 2000)
*ATF* 126 III 101 (6 October 1999)
*ATF* 125 I 257 (24 June 1999)
*ATF* 122 III 344 (3 September 1996)
*ATF* 116 II 625 (19 December 1990)
*ATF* 111 Ia 12 (13 March 1985)
*ATF* 103 Ia 199 (9 February 1977)
ATF 85 II 305 (17 October 1959)


Obergericht Zürich, BIZR 89 1990, no. 65, p. 139.
Obergericht Zürich, II. Zivilkammer, 1 May 1959, Annuaire suisse de droit international 1961, p. 293-295.
Tribunal cantonal, Neuchâtel, Ile Cour civile, 26 July 2001.

**United States**