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VOLUME 195

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# INTERNATIONAL LAW REPORTS

VOLUME  
195

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## CONTENTS

	<i>Page</i>
PREFACE	vii
EDITORIAL NOTE	ix
TABLE OF CASES (alphabetical)	xiii
TABLE OF CASES (according to courts and countries)	xv
DIGEST (main headings)	xvii
DIGEST OF CASES REPORTED IN VOLUME 195	xix
TABLE OF TREATIES	xxxiii
REPORTS OF CASES	1
INDEX	703
CONSOLIDATED TABLES OF CASES, VOLUMES 126-195	755

## PREFACE

The present volume contains the 2015 and 2018 judgments on the preliminary objection and merits respectively of the International Court of Justice in *Obligation to Negotiate Access to the Pacific Ocean* (*Bolivia v. Chile*). National jurisprudence is reflected in decisions from the courts of Belgium (*Mukeshimana*), England (*Kontic, Tomanovic, M/T "Prestige", Maduro Board and Dunn*), France (*Transparency International France*), Germany (*Greek Debt Restructuring Case*), the Netherlands (*Mothers of Srebrenica*), the Philippines (*Arigo v. Swift*), Russia (*Judgment No 6-P/2014*) and Sweden (*Kazakhstan v. Ascom and Stati*).

The Editors wish to thank the many people whose work has made this volume possible. Ms Rosalind Elphick undertook the task of summarizing the case from the International Court of Justice. Dr Natalie Jones summarized *Kontic, Tomanovic* and *M/T "Prestige"*, and Ms Caroline Kimeu prepared the summaries of *Maduro Board* and *Dunn*. Professor Raphael Pangalan wrote the summary of the *Arigo* case and Mr Daniel Regan summarized the *Stati* case. Dr Tom Ruys summarized the *Mukeshimana* case, the unofficial translation of which was prepared by Ms Odile Dua and Ms Marie Callens. Professor Michael Waibel, Ms Victoria Barausova and Ms Cléa Le Thuc translated and summarized the cases from Germany, Russia and France respectively. Ms Karen Lee wrote the summary of *Mothers of Srebrenica* and saw the volume through the press. Ms Isabelle l'Anson, the ILR Editorial Assistant, prepared the Tables of Cases and Digest. Miss Maureen MacGlashan, CMG, compiled the Table of Treaties and Index. Mrs Diane Illott checked the copy and Mr Jack Webb read the proofs.

The Editors are very grateful to the International Court of Justice for kindly permitting these *Reports* to use the electronic files of the relevant judgments posted on its official website. They also extend their thanks to the Supreme Court of the Netherlands, the Supreme Court of the Philippines and the Constitutional Court of the Russian Federation for permission to reproduce the unofficial English translations of the *Mothers of Srebrenica* case, the *Arigo* case and *Judgment No 6-P/2014* respectively using the electronic files posted on their official websites. They are indebted to Mr Alexander Foerster of Mannheim

Swartling for supplying, and granting permission to these *Reports* to reproduce, the unofficial English translation of the *Stati* case. The judgments from England published in this volume carry Crown copyright and contain public sector information licensed under the Open Government Licence v3.0; the electronic files were sourced from the United Kingdom Government Courts and Tribunals Judiciary and the British and Irish Legal Information Institute Websites.

This is the last volume on which Finola O’Sullivan has worked. As a senior member of the Cambridge University Press team, Finola has been responsible for the publication of the *Reports* since 1997 and has thus worked on 90 volumes. The editors would like to pay tribute to the dedication, energy and enthusiasm which she has always shown. We very much regret that she is leaving the Press and wish her all success in the future.

Finally, our thanks go to all the others who have worked to complete this volume, particularly our publishers, Cambridge University Press, and typesetters, SPi, and their staff.

C. J. GREENWOOD

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*January 2021*

## EDITORIAL NOTE

The *International Law Reports* endeavour to provide within a single series of volumes comprehensive access in English to judicial materials bearing on public international law. On certain topics it is not always easy to draw a clear line between cases which are essentially ones of public international law interest and those which are primarily applications of special domestic rules. For example, in relation to extradition, the *Reports* will include cases which bear on the exception of “political offences” or the rule of double criminality, but will restrict the number of cases dealing with purely procedural aspects of extradition. Similarly, while the general rules relating to the admission and exclusion of aliens, especially of refugees, are of international legal interest, cases on the procedure of admission usually are not. In such borderline areas, and sometimes also where there is a series of domestic decisions all dealing with a single point in essentially the same manner, only one illustrative decision will be printed and references to the remainder will be given in an accompanying note.

### DECISIONS OF INTERNATIONAL TRIBUNALS

The *Reports* seek to include so far as possible the available decisions of every international tribunal, e.g. the International Court of Justice, or ad hoc arbitrations between States. There are, however, some jurisdictions to which full coverage cannot be given, either because of the large number of decisions (e.g. the Administrative Tribunal of the United Nations) or because not all the decisions bear on questions of public international law (e.g. the Court of Justice of the European Union). In these instances, those decisions are selected which appear to have the greatest long-term value.

*Human rights cases.* The number of decisions on questions of international protection of human rights has increased considerably in recent years and it is now impossible for the *Reports* to cover them all. As far as decisions of international jurisdictions are concerned, the *Reports* will continue to publish decisions of the European Court of Human Rights and of the Inter-American Court of Human Rights, as well as “views” of the United Nations Human Rights Committee. Decisions of national courts on the application of conventions on human rights will not be published unless they deal with a major point of substantive human rights law or a matter of wider interest to public



international lawyers such as the relationship of international law and national law, the extent of the right of derogation or the principles of the interpretation of treaties.

*International arbitrations.* The *Reports* of course include arbitral awards rendered in cases between States which involve an application of public international law. Beyond this, however, the selection of arbitral decisions is more open to debate. As these *Reports* are principally concerned with matters of public international law, they will not include purely private law commercial arbitrations even if they are international in the sense that they arise between parties of different nationality and even if one of them is a State. (For reports of a number of such awards, see *Yearbook Commercial Arbitration* (ed. Stephan W. Schill, under the auspices of the International Council for Commercial Arbitration).) But where there is a sufficient point of contact with public international law then the relevant parts of the award will be reported. Examples of such points of contact are cases in which the character of a State as a party has some relevance (e.g. State immunity, stabilization clauses, *force majeure*) or where there is a choice of law problem involving discussion of international law or general principles of law as possible applicable laws. The same criteria will determine the selection of decisions of national courts regarding the enforcement of arbitral awards.

#### DECISIONS OF NATIONAL TRIBUNALS

A systematic effort is made to collect from all national jurisdictions those judicial decisions which have some bearing on international law.

#### EDITORIAL TREATMENT OF MATERIALS

The basic policy of the Editors is, so far as possible, to present the material in its original form. It is no part of the editorial function to impose on the decisions printed in these volumes a uniformity of approach or style which they do not possess. Editorial intervention is limited to the introduction of the summary and of the bold-letter rubric at the head of each case. This is followed by the full text of the original decision or of its translation. Normally, the only passages which will be omitted are those which contain either statements of fact having no bearing on the points of international law involved in the case or discussion of matters of domestic law unrelated to the points of international legal interest. The omission of material is usually indicated either by a series of dots or by the insertion of a sentence in square brackets noting the passages which have been left out.

#### PRESENTATION OF MATERIALS

For reproduction of material in this volume, electronic files have been used wherever possible and their source acknowledged in the Preface. Citations of the reports in which the case may be found are listed in the “Report” section in square brackets at the end of the case; the language of the original decision is also mentioned there. The bold figures in square brackets in the body of the text indicate the pagination of the original report where included.

#### NOTES

*Footnotes.* Footnotes enclosed in square brackets are editorial insertions. All other footnotes are part of the original report.

*Other notes.* References to cases deemed not to be sufficiently substantial to warrant reporting will occasionally be found in editorial notes either at the end of a report of a case on a similar point or under an independent heading.

#### DIGEST OF CASES

With effect from Volume 75 the decisions contained in the *Reports* are no longer arranged according to the traditional classification scheme. Instead a Digest of Cases is published at the beginning of each volume. The main headings of the Digest are arranged alphabetically. Under each heading brief details are given of those cases reported in that volume which contain points covered by that heading. Each entry in the Digest gives the name of the case concerned and the page reference, the name of the tribunal which gave the decision and an indication of the main points raised in the case which relate to that particular heading of the Digest. Where a case raises points which concern several different areas of international law, entries relating to that case will appear under each of the relevant headings in the Digest. A list of the main headings used in the Digest is set out at p. xvii.

#### CONSOLIDATED INDEX AND TABLES

A Consolidated Index and a Consolidated Tables of Cases and Treaties for volumes 1-80 were published in two volumes in 1990 and 1991. A further volume containing the Consolidated Index and Consolidated Tables of Cases and Treaties for volumes 81-100 was published in 1996. A Consolidated Index, a Consolidated Tables of Cases and a Consolidated Table of Treaties for volumes 1-125 were published in 2004. A Consolidated Index and a Consolidated Table of Treaties for volumes 1-160 were published in 2017. Volume 195 contains Consolidated Tables of Cases for volumes 126-195.

## TABLE OF CASES REPORTED

### ALPHABETICAL

(Cases which are reported only in a note are distinguished from cases which are reported in full by the insertion of the word “note” in parentheses after the page number of the report.)

Arigo and Others <i>v.</i> Swift and Others 295	Obiang Case (Transparency International France <i>v.</i> Mr X) 219
Belgian State <i>v.</i> Mukeshimana-Ngulinzira and Others 179	Obligation to Negotiate Access to the Pacific Ocean (Bolivia <i>v.</i> Chile) (Preliminary Objection) (Merits) 1
Dunn Case 662	
Greek Debt Restructuring Case (Case No 2 BvR 331/18) 227	<i>Prestige, M/T</i> (The London Steam-Ship Owners' Mutual Insurance Association Ltd <i>v.</i> Kingdom of Spain) 531
Kazakhstan Ministry of Finance and National Bank of Kazakhstan <i>v.</i> Ascom Group SA, Anatolie Stati, Gabriel Stati, Terra Raf Trans Trading Ltd 387	R (Charles and Dunn) <i>v.</i> Secretary of State for Foreign and Commonwealth Affairs 662
Kontic, Milenkovic and Tomanovic <i>v.</i> Ministry of Defence 414	Republic of Kazakhstan Ministry of Finance and National Bank of Kazakhstan <i>v.</i> Ascom Group SA, Anatolie Stati, Gabriel Stati, Terra Raf Trans Trading Ltd 387
The London Steam-Ship Owners' Mutual Insurance Association Ltd <i>v.</i> Kingdom of Spain ( <i>M/T "Prestige"</i> ) 531	<i>Re</i> Review of Constitutionality of the Treaty between the Russian Federation and the Republic of Crimea on the Accession of the Republic of Crimea to the Russian Federation and on Forming New Constituent Entities within the Russian Federation that has Not Entered into Legal Force (Judgment No 6-P/2014) 374
Maduro Board of the Central Bank of Venezuela <i>v.</i> Guaidó Board of the Central Bank of Venezuela 612	
Marchal, Lemaire and Dewez <i>v.</i> Mukeshimana-Ngulinzira and Others 179	Tomanovic and Others <i>v.</i> Foreign and Commonwealth Office 483
Mukeshimana Case 179	Transparency International France <i>v.</i> Mr X 219
Netherlands <i>v.</i> Mothers of Srebrenica Association and Others 239	

## TABLE OF CASES REPORTED

ARRANGED ACCORDING TO COURTS AND TRIBUNALS  
 (INTERNATIONAL CASES) AND COUNTRIES (MUNICIPAL CASES)

(Cases which are reported only in a note are distinguished from cases which are reported in full by the insertion of the word “note” in parentheses after the page number of the report.)

### I. DECISIONS OF INTERNATIONAL TRIBUNALS

<i>International Court of Justice</i>	2018
Obligation to Negotiate Access to the Pacific Ocean (Bolivia <i>v.</i> Chile) (Preliminary Objection) 1, 10	Obligation to Negotiate Access to the Pacific Ocean (Bolivia <i>v.</i> Chile) (Merits) 1, 68

### II. DECISIONS OF MUNICIPAL COURTS

<i>Belgium</i>	<i>The Philippines</i>
Marchal, Lemaire and Dewez <i>v.</i> Mukeshimana-Ngulinzira and Others; Belgian State <i>v.</i> Mukeshimana-Ngulinzira and Others 179	Arigo and Others <i>v.</i> Swift and Others 295
<i>France</i>	<i>Russian Federation</i>
Transparency International France <i>v.</i> Mr X 219	<i>Re</i> Review of Constitutionality of the Treaty between the Russian Federation and the Republic of Crimea on the Accession of the Republic of Crimea to the Russian Federation and on Forming New Constituent Entities within the Russian Federation that has Not Entered into Legal Force (Judgment No 6-P/2014) 374
<i>Germany, Federal Republic of</i>	<i>Sweden</i>
Greek Debt Restructuring Case (Case No 2 BvR 331/18) 227	Republic of Kazakhstan Ministry of Finance and National Bank of Kazakhstan <i>v.</i> Ascom Group SA, Anatolie Stati, Gabriel Stati, Terra Raf Trans Trading Ltd 387
<i>The Netherlands</i>	
Netherlands <i>v.</i> Mothers of Srebrenica Association and Others 239	

*United Kingdom, England*

- 2016  
Kontic, Milenkovic and Tomanovic *v.*  
Ministry of Defence 414
- 2019  
Tomanovic and Others *v.* Foreign and  
Commonwealth Office 483

## 2020

- The London Steam-Ship Owners' Mutual  
Insurance Association Ltd *v.* Kingdom of  
Spain (*MT "Prestige"*) 531
- Maduro Board of the Central Bank of  
Venezuela *v.* Guaidó Board of the  
Central Bank of Venezuela 612
- R (Charles and Dunn) *v.* Secretary of State  
for Foreign and Commonwealth Affairs  
662

## DIGEST OF CASES

### List of Main Headings

(Those headings for which there are entries in the present volume are printed in italics. For a guide to the Digest, see the Editorial Note at p. xi.)

Air	<i>International Organizations</i>
Aliens	International Tribunals
<i>Arbitration</i>	<i>Jurisdiction</i>
Canals	Lakes and Landlocked Seas
Claims	<i>Nationality</i>
Comity	<i>Recognition</i>
Conciliation	<i>Relationship of International Law and Municipal Law</i>
Consular Relations	Reprisals and Countermeasures
<i>Damages</i>	Rivers
<i>Diplomatic Relations</i>	<i>Sea</i>
<i>Economics, Trade and Finance</i>	Sources of International Law
<i>Environment</i>	Space
Evidence before International Courts and Tribunals	<i>State Immunity</i>
Expropriation	<i>State Responsibility</i>
Extradition	State Succession
<i>General Principles of International Law</i>	States
<i>Governments</i>	<i>Territory</i>
<i>Human Rights</i>	Terrorism
<i>International Court of Justice</i>	<i>Treaties</i>
<i>International Criminal Law</i>	<i>War and Armed Conflict</i>

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Frontmatter  
[More Information](#)

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## DIGEST OF CASES REPORTED IN VOLUME 195

	<i>Page</i>
<b>Arbitration</b>	
Arbitration Act 1996 — English claimant company seeking to appoint arbitrator in proceedings against Spain — Whether Spain entitled to State immunity under State Immunity Act 1978 — Whether court having jurisdiction to appoint an arbitrator — England, High Court, Queen’s Bench Division (Commercial Court)	
<i>The London Steam-Ship Owners’ Mutual Insurance Association Ltd v. Kingdom of Spain (M/T “Prestige”)</i>	531
Post-Award enforcement — Attachment — Whether property of a State central bank immune from attachment in satisfaction of an arbitral award rendered against the State — Sweden, Svea Court of Appeal	
<i>Kazakhstan Ministry of Finance and National Bank of Kazakhstan v. Ascom Group SA, Anatolie Stati, Gabriel Stati, Terra Raf Trans Trading Ltd</i>	387
<b>Damages</b>	
Claim for damages — Whether Netherlands to pay compensation — Whether order of Court of Appeal for compensation to be paid — Whether based on incorrect interpretation of law — Whether incomprehensible — Whether claim for damages could only be lodged by surviving relatives of male refugees evacuated from compound on 13 July 1995 — Whether Mothers of Srebrenica Association could claim damages — The Netherlands, Supreme Court	
<i>Netherlands v. Mothers of Srebrenica Association and Others</i>	239
<b>Diplomatic Relations</b>	
Diplomatic correspondence — Exchange of Notes between United States Embassy and United Kingdom’s Foreign and Commonwealth Office — Express waiver of United States Embassy Administrative and Technical staff’s diplomatic immunity from criminal jurisdiction of United Kingdom, in relation to acts performed outside course of duties — Whether	



### Diplomatic Relations (*cont.*)

express waiver of criminal immunity applying to family members of United States Embassy Administrative and Technical staff — Vienna Convention on Diplomatic Relations, 1961 — Whether entitling family members of diplomatic staff to derivative set of privileges and immunities or conferring separate entitlements to inviolability and immunity — England, High Court, Queen's Bench Division (Administrative Court)

*R (Charles and Dunn) v. Secretary of State for Foreign and Commonwealth Affairs* 662

Peaceful settlement of disputes — Duty to negotiate — Whether duty of peaceful settlement giving rise to duty to negotiate to achieve a specific result — Whether expression of willingness to negotiate imposing binding obligation — Obligations of result — International Court of Justice

*Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile) (Preliminary Objection) (Merits)* 1

Whether United Kingdom Government's continued diplomatic relations with Mr Maduro's representatives in England constituting implied recognition of Mr Maduro as *de facto* President — England, Court of Appeal (Civil Division)

*Maduro Board of the Central Bank of Venezuela v. Guaidó Board of the Central Bank of Venezuela* 612

### Economics, Trade and Finance

European Monetary Union — Hellenic Republic — Public debt — Bonds — Greek sovereign debt crisis — Sovereign debt restructuring — Collective Action Clauses — Secondary market — Bond exchange — Financial stability — Federal Republic of Germany, Federal Constitutional Court (*BVerfG*)

*Greek Debt Restructuring Case (Case No 2 BvR 331/18)* 227

### Environment

Marine environment — Right to a healthful ecology — Intergenerational responsibility — Writ of *Kalikasan* — The Philippines, Supreme Court

*Arigo and Others v. Swift and Others* 295

## General Principles of International Law

Estoppel — Conditions for estoppel — Legitimate expectations — Whether forming part of international law — International Court of Justice

*Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile) (Preliminary Objection) (Merits)*

1

## Governments

Recognition — Rival governments — Venezuela — Disputed 2018 Venezuelan presidential election — Whether Mr Maduro or Mr Guaidó President of Venezuela — Whether Maduro Board or Guaidó Board entitled to give instructions on behalf of Central Bank of Venezuela concerning its assets in England — England, Court of Appeal (Civil Division)

*Maduro Board of the Central Bank of Venezuela v. Guaidó Board of the Central Bank of Venezuela*

612

## Human Rights

European Convention on Human Rights, 1950 — Article 2 — Right to life — Article 3 — Right to be free from subjection to torture or inhuman or degrading treatment — Article 8 — Article 13 — Human Rights Act 1998 — Positive obligation — Whether United Kingdom having operational protective duty — Whether United Kingdom having investigative duty — Jurisdiction — Whether limitation period under Human Rights Act 1998 could be extended — Whether Human Rights Act 1998 can be applied retrospectively — Customary international law — England, High Court, Queen's Bench Division

*Kontic, Milenkovic and Tomanovic v. Ministry of Defence*

414

Right to life — Prohibition of torture — European Convention on Human Rights, 1950 — Article 2 — Article 3 — Positive obligation — Human Rights Act 1998 — Whether United Kingdom having investigative duty — Whether investigative duty arising in respect of events before Human Rights Act 1998 entering into force — Whether investigative duty arising where no breach of substantive right — England, High Court, Queen's Bench Division

*Tomanovic and Others v. Foreign and Commonwealth Office*

483

### Human Rights (*cont.*)

Rights to life and physical integrity — Treaties — Standards — European Convention on Human Rights, 1950, Articles 2 and 3 — War situation in Bosnia and Herzegovina — Evacuation of refugees — Rights of male refugees — Violation of rights by Bosnian Serbs — Whether Dutchbat's command knew, or reasonably ought to have known, at time of evacuation of real risk of violation of those rights — Whether Dutchbat acting wrongfully — Whether wrongful for Dutchbat to continue to cooperate in evacuation of refugees located in mini safe area outside compound — Whether wrongful for Dutchbat not to offer male refugees the choice of remaining in compound — Whether real chance that male refugees could have escaped Bosnian Serbs if remaining in compound — Estimation of chance — The Netherlands, Supreme Court

*Netherlands v. Mothers of Srebrenica Association and Others* 239

### International Court of Justice

Jurisdiction — Consent of States Parties — Pact of Bogotá — Exception to jurisdiction for disputes settled before entry into force of Pact — Dispute between Bolivia and Chile regarding Bolivian access to the Pacific Ocean — War of the Pacific — 1904 Treaty of Peace — Whether Chile had subsequently agreed to negotiate to give Bolivia sovereign access to the sea — Whether dispute had been settled before the entry into force of the Pact — Whether objection possessing an exclusively preliminary character — International Court of Justice

*Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile) (Preliminary Objection) (Merits)* 1

### International Criminal Law

Genocide — Whether Netherlands failing to prevent genocide perpetrated by Bosnian Serbs — Obligation to prevent genocide in Article I of Convention on the Prevention and Punishment of the Crime of Genocide, 1948 — Whether Netherlands violating Article I of Genocide Convention — Whether Article I having direct effect in proceedings between civilians and Netherlands — The Netherlands, Supreme Court

*Netherlands v. Mothers of Srebrenica Association and Others* 239

## International Organizations

Immunity — United Nations Interim Administration Mission in Kosovo Regulation 2000/47 — European Rule of Law Mission in Kosovo — Special Prosecutions Office of the Republic of Kosovo — Special Representative of the Secretary-General for Kosovo — Executive Decision No 2008/36 — Prosecutor seconded from Foreign and Commonwealth Office to Special Prosecutions Office of the Republic of Kosovo — Whether immunity protecting Foreign and Commonwealth Office — England, High Court, Queen's Bench Division

*Tomanovic and Others v. Foreign and Commonwealth Office* 483

Responsibility — United Nations — Peacekeeping troops — Dutch battalion contingent of United Nations Protection Force in Bosnia and Herzegovina ("Dutchbat") — Dutchbat United Nations organ — Responsibility for conduct of Dutchbat — Acts of Dutchbat taking place up until 23.00 on 11 July 1995 under UN flag — *Ultra vires* conduct — Attribution to UN — UN International Law Commission Draft Articles on the Responsibility of International Organizations 2011, Article 8 — The Netherlands, Supreme Court

*Netherlands v. Mothers of Srebrenica Association and Others* 239

## Jurisdiction

Territorial — European Convention on Human Rights, 1950 — Article 1 — Exceptions to jurisdiction — Effective control — State agent authority — Kosovo Force — United Kingdom — Protection from violence — Police investigations — Whether United Kingdom exercising effective control of Kosovo at relevant time — Whether United Kingdom exercising physical authority or control — England, High Court, Queen's Bench Division

*Kontic, Milenkovic and Tomanovic v. Ministry of Defence* 414

Territorial — European Convention on Human Rights, 1950 — Article 1 — Exceptions to jurisdiction — State agent authority — European Rule of Law Mission in Kosovo — Special Prosecutions Office of the Republic of Kosovo — United Kingdom prosecutor seconded to Special Prosecutions Office — Police investigations — Whether United Kingdom exercising extra-territorial jurisdiction in Kosovo by reason of State agent authority — England, High Court, Queen's Bench Division

*Tomanovic and Others v. Foreign and Commonwealth Office* 483

### Jurisdiction (*cont.*)

United States vessel entering restricted area of Philippine waters — Whether act *jure imperii* — Environmental damage — Whether United States having immunity — Whether Philippines barred from exercising jurisdiction over United States respondents — Article XVI of Philippines Constitution, 1987 — The Philippines, Supreme Court

*Arigo and Others v. Swift and Others*

295

### Nationality

Citizenship — Stateless persons — Crimea acceding to Russian Federation — New constituent territories of Russian Federation — Republic of Crimea — Federal city of Sevastopol — Ukrainian citizens and resident stateless persons at time of accession — Automatic Russian citizenship — Option to retain existing citizenship — Article 5 of Treaty between Russian Federation and Republic of Crimea on the Accession of the Republic of Crimea to the Russian Federation and on Forming New Constituent Entities within the Russian Federation, 2014 — Whether compatible with Constitution of Russian Federation — Russian Federation, Constitutional Court

*Re Review of Constitutionality of the Treaty between the Russian Federation and the Republic of Crimea on the Accession of the Republic of Crimea to the Russian Federation and on Forming New Constituent Entities within the Russian Federation that has Not Entered into Legal Force (Judgment No 6-P/2014)*

374

### Recognition

Whom United Kingdom Government recognizing as Head of State and Head of Government of Venezuela — Whether United Kingdom Foreign Secretary's statement constituting recognition of Mr Guaidó as Interim President — Whether United Kingdom Government's recognition of Mr Guaidó *de facto* or *de jure* — Whether United Kingdom Foreign Secretary's statement of recognition leaving open possibility of continuing implied recognition of Mr Maduro as *de facto* President — Whether a *de facto* recognition of Mr Guaidó would violate rule against intervention in internal affairs of a foreign State — "One voice" doctrine — Whether English courts obliged to accept United Kingdom Government's recognition of Mr Guaidó as conclusive — Foreign act of State doctrine — Whether challenges to validity, under Venezuelan law, of Mr Guaidó's

legislative and executive acts justiciable in English courts —  
 England, Court of Appeal (Civil Division)

*Maduro Board of the Central Bank of Venezuela v. Guaidó  
 Board of the Central Bank of Venezuela* 612

### Relationship of International Law and Municipal Law

Compatibility with Basic Law of the Federal Republic of  
 Germany — General principle of international law — Article  
 25 of German Basic Law — Right to a lawful judge — Federal  
 Republic of Germany, Federal Constitutional Court (*BVerfG*)

*Greek Debt Restructuring Case (Case No 2 BvR 331/18)* 227

Treaties — Convention on the Prevention and Punishment of the  
 Crime of Genocide, 1948 — Article I — Obligation to prevent  
 genocide — Whether Article I of Genocide Convention having  
 direct effect within meaning of Articles 93 and 94 of Constitution  
 of the Netherlands — Interpretation of provision in accordance  
 with Articles 31-3 of Vienna Convention on the Law of Treaties,  
 1969 — Text of Genocide Convention — Legislative history of  
 Genocide Convention — Whether Contracting Parties intending  
 obligation to have direct effect — Whether terms of provision  
 sufficiently precise to be applied directly — Whether obligation  
 having direct effect in proceedings between civilians and  
 Netherlands — The Netherlands, Supreme Court

*Netherlands v. Mothers of Srebrenica Association and Others* 239

Treaties — European Convention on Human Rights, 1950,  
 Articles 2 and 3 — International Covenant on Civil and  
 Political Rights, 1966 — Protection of rights to life and physical  
 integrity — Whether Dutchbat's acts wrongful to be assessed  
 under Dutch law — Applicable standard — Article 6:162 of  
 Dutch Civil Code — Duty of care — Standards derived from  
 Articles 2 and 3 of European Convention inherent in duty of  
 care — Whether Court of Appeal applying correct standard —  
 The Netherlands, Supreme Court

*Netherlands v. Mothers of Srebrenica Association and Others* 239

Treaties — Signature — Ratification — Application — Treaty  
 between the Russian Federation and the Republic of Crimea on  
 the Accession of the Republic of Crimea to the Russian Federation  
 and on Forming New Constituent Entities within the Russian  
 Federation, 2014 — Compatibility with Constitution of Russian

### **Relationship of International Law and Municipal Law** (*cont.*)

Federation — Constitutional review of Treaty prerequisite for ratification — Article 128(3) of Constitution — Federal Constitutional Law on the Constitutional Court of the Russian Federation — Federal Constitutional Law on Accession to the Russian Federation and Establishment of a New Constituent Entity within the Russian Federation — Whether Treaty can be applied before entry into force — Vienna Convention on the Law of Treaties, 1969 — Procedure for signature, conclusion and enactment of Crimea Accession Treaty — Treaty provision content — Whether compatible with Constitution of Russian Federation — Effect of legal acts in new constituent territories — Integration of Russian legal system — Russian Federation, Constitutional Court

*Re Review of Constitutionality of the Treaty between the Russian Federation and the Republic of Crimea on the Accession of the Republic of Crimea to the Russian Federation and on Forming New Constituent Entities within the Russian Federation that has Not Entered into Legal Force (Judgment No 6-P/2014)*

374

### **Sea**

Treaties — United Nations Convention on the Law of the Sea — Convention not ratified by United States — Customary international law — Coastal State rights — Marine environment — Whether relevant provisions of treaty codifying customary international law — Whether United States responsible for environmental damage — Whether United States immune from suit — The Philippines, Supreme Court

*Arigo and Others v. Swift and Others*

295

### **State Immunity**

Immunity from execution — Customary international law — United Nations Convention on Jurisdictional Immunities of States and Their Property, 2004 — Articles 19 and 21 — Whether property of a State central bank immune from measures of constraint — Sweden, Svea Court of Appeal

*Kazakhstan Ministry of Finance and National Bank of Kazakhstan v. Ascom Group SA, Anatolie Stati, Gabriel Stati, Terra Raf Trans Trading Ltd*

387

Jurisdiction — State Immunity Act 1978 — Arbitration — Spain seeking to set aside order granting English claimant company permission to serve application claim form — Appointment of arbitrator — Whether Spain entitled to State immunity — Whether Spain lacking immunity under Sections 2, 3 or 9 of Act — Whether Spain having submitted to jurisdiction of the Court — Whether arbitration proceedings relating to a commercial transaction entered into by Spain — Whether proceedings relating to a contractual obligation falling to be performed in United Kingdom — Whether Spain having agreed in writing to submit dispute to arbitration — England, High Court, Queen's Bench Division (Commercial Court)

*The London Steam-Ship Owners' Mutual Insurance Association Ltd v. Kingdom of Spain (M/T "Prestige")* 531

Jurisdictional immunity — Exceptions — *Acta jure gestionis* — *Acta jure imperii* — Once a trader always a trader — State of emergency — Law-making — Legislature regulating legal relations initially established by *acta jure gestionis* qualifying as *acta jure imperii* — Federal Republic of Germany, Federal Constitutional Court (*BVerfG*)

*Greek Debt Restructuring Case (Case No 2 BvR 331/18)* 227

Jurisdictional immunity — Immunity of individual officials — Head of State immunity — Immunity *ratione personae* and immunity *ratione materiae* — Immunity *ratione personae* confined to Head of State and certain high-ranking officials — Immunity *ratione materiae* applicable only in respect of official acts — Vienna Convention on Diplomatic Relations, 1961 — Vice-President of State accused of misappropriation of funds and money laundering by authorities of another State — Whether entitled to immunity — Immunity of diplomatic agents — State sovereignty — Customary international law — France, Court of Cassation (Criminal Chamber)

*Transparency International France v. Mr X* 219

Security Council Resolution 1244 — Kosovo — Kosovo Force — United Nations Interim Administration Mission in Kosovo Regulation 2000/47 — Joint Declaration of Special Representative of Secretary General and Commander of Kosovo Force, 17 August 2000 — England, High Court, Queen's Bench Division

*Kontic, Milenkovic and Tomanovic v. Ministry of Defence* 414



### State Immunity (*cont.*)

United Nations Convention on the Law of the Sea, 1982 — Articles 30, 31 and 32 — Rules applicable to warships — Non-compliance by warships with laws and regulations of coastal State — United States vessel entering restricted area of Philippine waters — Responsibility of flag State for damage caused by warship — Immunities of warships — Philippines–United States of America Visiting Forces Agreement, 1998 — Whether any waiver of immunity — Role of executive — The Philippines, Supreme Court

*Arigo and Others v. Swift and Others*

295

### State Responsibility

Attribution — United Nations peacekeeping troops — Dutch battalion contingent of United Nations Protection Force in Bosnia and Herzegovina (“Dutchbat”) — Responsibility for conduct of Dutchbat — Acts of Dutchbat taking place up until 23.00 on 11 July 1995 under UN flag — Whether attributable to Netherlands — Whether Netherlands having effective control over acts — UN International Law Commission Draft Articles on Responsibility of States for Internationally Wrongful Acts 2001, Articles 4(1) and 8 — Dutchbat United Nations organ — Whether Dutchbat’s conduct taking place under direction or control of Netherlands — Effective control standard — Whether Netherlands responsible for Dutchbat’s conduct at relevant time — The Netherlands, Supreme Court

*Netherlands v. Mothers of Srebrenica Association and Others*

239

Imputability — International Law Commission Articles on State Responsibility — International Law Commission Draft Articles on the Responsibility of International Organizations — Imputability in context of United Nations peacekeeping operations — Responsibility of troop-contributing countries — Ultimate control — Effective control — Belgium, Brussels Court of Appeal

*Marchal, Lemaire and Dewez v. Mukeshimana-Ngulinzira and Others; Belgian State v. Mukeshimana-Ngulinzira and Others*

179

International organizations — Attribution — Kosovo — European Rule of Law Mission in Kosovo — Special Prosecutions Office of the Republic of Kosovo — Prosecutor seconded to Special Prosecutions Office — United Kingdom —

Foreign and Commonwealth Office — Ethnic tensions — Killings — Abductions — Failure of Special Prosecutions Office to investigate crimes — Whether conduct of Special Prosecutions Office attributable to United Kingdom Foreign and Commonwealth Office — England, High Court, Queen's Bench Division

*Tomanovic and Others v. Foreign and Commonwealth Office* 483

International organizations — Attribution — Kosovo — United Nations Security Council — Security Council Resolution 1244 — Kosovo — United Nations Special Representative for Kosovo — North Atlantic Treaty Organization — Kosovo Force — Troop-contributing nations — United Kingdom — Ethnic tensions — Killings — Failure of Kosovo Force to investigate crimes — Whether conduct of Kosovo Force attributable to United Nations or to United Kingdom — England, High Court, Queen's Bench Division

*Kontic, Milenkovic and Tomanovic v. Ministry of Defence* 414

## Territory

Acquisition — Accession — Accession of Republic of Crimea to Russian Federation — New constituent territories — Republic of Crimea — Federal city of Sevastopol — Treaties — Treaty between Russian Federation and Republic of Crimea on the Accession of the Republic of Crimea to the Russian Federation and on Forming New Constituent Entities within the Russian Federation, 2014 — Whether accession carried out in accordance with Constitution of Russian Federation — Whether accession carried out in accordance with Treaty — Whether accession carried out in accordance with federal constitutional laws — Whether Treaty compatible with Constitution — Procedure for future accessions — Legal status of constituent territories — Regulation of State border — Integrity and inviolability of Russian territory — Constitutional values — Citizenship — Transition period — Military service — Elections — Effect of legal acts in new constituent territories — Russian Federation, Constitutional Court

*Re Review of Constitutionality of the Treaty between the Russian Federation and the Republic of Crimea on the Accession of the Republic of Crimea to the Russian Federation and on Forming New Constituent Entities within the Russian Federation that has Not Entered into Legal Force (Judgment No 6-P/2014)* 374

### Territory (*cont.*)

Sovereignty — Treaty of peace — 1879 War of the Pacific — Bolivia losing coastal territory to Chile — 1904 Treaty of Peace — Whether Bolivia possessing sovereign rights of access to the Pacific notwithstanding loss of coastline — Whether Chile under a duty to negotiate sovereign access for Bolivia — International Court of Justice

*Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile) (Preliminary Objection) (Merits)*

1

### Treaties

Diplomatic exchanges — Whether constituting treaty — Whether giving rise to binding legal obligations — Expressions of willingness to negotiate — Whether creating legal obligation to negotiate so as to achieve specific result — International Court of Justice

*Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile) (Preliminary Objection) (Merits)*

1

Interpretation — Application — Effect — Convention on the Prevention and Punishment of the Crime of Genocide, 1948 — Article I — Obligation to prevent genocide — Interpretation of provision in accordance with Articles 31-3 of Vienna Convention on the Law of Treaties, 1969 — Text of Genocide Convention — Legislative history of Genocide Convention — Whether Contracting Parties intending obligation to have direct effect — Whether terms of provision sufficiently precise to be applied directly — Whether obligation having direct effect in proceedings between civilians and Netherlands — The Netherlands, Supreme Court

*Netherlands v. Mothers of Srebrenica Association and Others*

239

Ratification — Application — Treaty between Russia and Republic of Crimea on the Accession of the Republic of Crimea to Russia and on Forming New Constituent Entities within the Russian Federation, 2014 — Treaty not yet in force — Constitutional review of treaty as a prerequisite for ratification — Ratification necessary before international treaty can enter into force — Signature of Treaty by Russian President — Date of entry into force — Whether Treaty can be applied before entry into force — Vienna Convention on the Law of Treaties, 1969 — Procedure for signature, conclusion and

enactment of Crimea Accession Treaty — Treaty provision  
 content — Whether compatible with Constitution of Russian  
 Federation — Russian Federation, Constitutional Court

*Re Review of Constitutionality of the Treaty between the Russian  
 Federation and the Republic of Crimea on the Accession of the  
 Republic of Crimea to the Russian Federation and on Forming  
 New Constituent Entities within the Russian Federation that has  
 Not Entered into Legal Force (Judgment No 6-P/2014)*

374

### War and Armed Conflict

Non-international armed conflict — United Nations —  
 Peacekeeping — United Nations Assistance Mission for Rwanda  
 (UNAMIR), 1993 — Rwandan genocide — Belgium, Brussels  
 Court of Appeal

*Marchal, Lemaire and Dewez v. Mukeshimana-Ngulinzira and  
 Others; Belgian State v. Mukeshimana-Ngulinzira and Others*

179

Treaty of peace — Territory acquired by use of force during  
 nineteenth century — Subsequent recognition of title of  
 victorious State by treaty of peace — International Court  
 of Justice

*Obligation to Negotiate Access to the Pacific Ocean (Bolivia v.  
 Chile) (Preliminary Objection) (Merits)*

1