



February 2016

This factsheet is not exhaustive and does not bind the Court

Extra-territorial jurisdiction of States Parties to the European Convention on Human Rights

Article 1 (obligation to respect human rights) of the [European Convention on Human Rights](#) (ECHR):

“The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.”

State’s acts occurring within ECHR space but outside State’s own territory

Diplomatic premises

[M. v. Denmark \(application no. 17392/90\)](#)

14 October 1992 (decision of the European Commission on Human Rights¹)

The applicant, in an attempt to leave East Germany (German Democratic Republic) and move to the West (the Federal Republic of Germany), entered the premises of the Danish Embassy in (East) Berlin in 1988. At the request of the Danish ambassador, the East German police entered the Embassy, took the applicant away and he was ultimately sentenced to conditional imprisonment after spending 33 days in detention. He complained that his right to liberty and security was violated when he was handed over to the East German police.

It was clear from the constant jurisprudence of the European Commission of Human Rights that authorised agents of a State, including diplomatic or consular agents, brought other people or property within the jurisdiction of that State to the extent that they exercised authority over them. Therefore, the acts of the Danish ambassador, of which the applicant had complained, had affected people within the jurisdiction of the Danish authorities.

Military presence and political support

[Loizidou v. Turkey](#)

23 March 1995 (judgment – preliminary objections)

The applicant complained, in particular, that her property rights had been breached as a result of the continued occupation and control of the northern part of Cyprus by Turkish armed forces which had, on several occasions, prevented her from gaining access to her home and other properties there.

¹. Together with the European Court of Human Rights and the Committee of Ministers of the Council of Europe, the European Commission of Human Rights, which sat in Strasbourg from July 1954 to October 1999, supervised Contracting States’ compliance with their obligations under the European Convention on Human Rights. The Commission ceased to exist when the Court became permanent on 1st November 1998.

The Court recalled that, although Article 1 (obligation to respect human rights) of the European Convention on Human Rights set limits on the reach of the Convention, the concept of “jurisdiction” under that provision was not restricted to the national territory of the Contracting States. In particular, State’s responsibility might also arise when as a consequence of military action – whether lawful or unlawful – it exercised effective control over an area outside its national territory. States’ obligation to secure in such areas the Convention rights and freedoms derived from the fact that they exercised effective control there, whether that was done directly, through the State’s armed forces, or through a subordinate local administration. In the present case, Turkey had acknowledged that the applicant had lost control of her property as a result of the occupation of the northern part of Cyprus by Turkish troops and the establishment there of the “Turkish Republic of Northern Cyprus” (the “TRNC”). Turkey exercised effective overall control over northern Cyprus through its military presence there, with the result that its responsibility under the Convention was engaged for the policies and actions of the “TRNC” authorities. Consequently, the acts of the “TRNC” authorities, supported by Turkish forces, fell within Turkish jurisdiction.

Cyprus v. Turkey

10 May 2001 (Grand Chamber – judgment on the merits)

The case related to the situation that has existed in northern Cyprus since the conduct of military operations there by Turkey in July and August 1974 and the continuing division of the territory of Cyprus. Cyprus contended that, despite the proclamation of the “Turkish Republic of Northern Cyprus” (the “TRNC”) in November 1983, that was an illegal entity under international law and therefore Turkey was the accountable State for a broad range of Convention violations there. Turkey argued that the “TRNC” was politically independent from Turkey and consequently Turkey could not be held responsible for its acts.

The Court stressed that Turkey’s responsibility under the Convention could not be confined to the acts of its own soldiers and officials operating in northern Cyprus but was also engaged by virtue of the acts of the local administration (“the TRNC”), which survived by virtue of Turkish military and other support. Turkey, therefore, had jurisdiction under the Convention.

Manitaras and Others v. Turkey

3 June 2008 (decision on the admissibility)

Following the Turkish intervention of 1974 in the north of Cyprus, the first applicant remained living together with a small group of Greek Cypriots. In February 1998, he gave evidence to the delegation of the European Commission of Human Rights² in the course of the *Cyprus v. Turkey* (cited above) proceedings at a hearing in a hotel in Nicosia. In April 1999, he was found dead in his house. While the local authorities concluded that he had died of natural death as a result of a myocardial infection, the applicants – his relatives – complained that he was killed.

The Court recalled its finding in the case of *Cyprus v. Turkey* (see above) that having effective overall control over northern Cyprus, Turkey’s responsibility could not be confined to the acts of its own soldiers or officials in northern Cyprus but was also engaged via the acts of the local administration which survived by virtue of Turkish military and other support. It followed that Turkey’s jurisdiction extended to the entire range of Convention rights violations, which were imputable to Turkey. The area in which the alleged acts took place was on the territory of the “Turkish Republic of Northern Cyprus”. Therefore, the first applicant came under the authority and/or effective control, and therefore within the jurisdiction, of Turkey.

². See footnote 1 above.

Pisari v. the Republic of Moldova and Russia

20 April 2015 (judgment)

This case addressed the question of State responsibility for the actions of a Russian soldier at a peacekeeping checkpoint in Moldova which resulted in the death of a young man. The checkpoint in question was situated in the security zone put in place following an agreement to end the military conflict in the Transdnistrian region of Moldova in 1992 and was under the command of Russian soldiers.

The Court observed that neither the Russian Federation nor the Republic of Moldova had disputed their jurisdiction in this case. It then noted that when State servicemen are deployed in another State's territory, the extra territorial force they use may extend a State's jurisdiction to cover those affected by their servicemen's actions. In this case the Court noted that it was a Russian soldier who had shot the young man at a checkpoint which was situated in a security zone manned and commanded by Russian soldiers in accordance with the agreement putting an end to the military conflict in the Transdnistrian region of Moldova. Therefore the Court found that the young man was under the jurisdiction of the Russian Federation when he was shot. On the other hand, the applicants - the parents of the young man - considered that the Moldovan authorities had not been responsible for their son's death and had done everything they reasonably could to investigate his death; they therefore no longer wished to continue their application against the Republic of Moldova. The Court, which was satisfied that respect for human rights as defined in the European Convention and its Protocols did not require it to continue examination of this part of the applicants' complaints, therefore accepted that wish and decided to strike out of its list of cases the part of the application directed against the Republic of Moldova.

Chiragov and Others v. Armenia

16 June 2015 (Grand Chamber – judgment on the merits)

This case concerned the complaints by six Azerbaijani refugees that they were unable to return to their homes and property in the district of Lachin, in Azerbaijan, from where they had been forced to flee in 1992 during the Armenian-Azerbaijani conflict over Nagorno-Karabakh³.

In the applicants' case, the Court confirmed that Armenia exercised effective control over Nagorno-Karabakh and the surrounding territories and thus had jurisdiction over the district of Lachin. It noted in particular that numerous reports and public statements, including from members and former members of the Armenian Government, demonstrated that Armenia, through its military presence and by providing military equipment and expertise, had been significantly involved in the Nagorno-Karabakh conflict from an early date. Armenia's military support continued to be decisive for the control over the territories in question. Furthermore, it was evident from the facts established in the case that Armenia gave the "Nagorno-Karabakh Republic" (the "NKR") substantial political and financial support; its citizens were moreover required to acquire Armenian passports to travel abroad, as the "NKR" was not recognised by any State or international organisation. In conclusion, Armenia and the "NKR" were highly integrated in virtually all important matters and the "NKR" and its administration survived by virtue of the military, political, financial and other support given to it by Armenia. Armenia thus exercised effective control over Nagorno-Karabakh and the surrounding territories.

³. Under the Soviet system of territorial administration, Nagorno-Karabakh was an autonomous province of the Azerbaijan Soviet Socialist Republic. Its population was approximately 75% ethnic Armenian and 25% ethnic Azeri. Armed hostilities started in 1988, coinciding with an Armenian demand for the incorporation of the province into Armenia. Azerbaijan became independent in 1991. In September 1991 the Nagorno-Karabakh Soviet announced the establishment of the "Nagorno-Karabakh Republic" (the "NKR") and in January 1992 the "NKR" parliament declared independence from Azerbaijan. The conflict gradually escalated into full-scale war before a ceasefire was agreed in 1994. Despite negotiations for a peaceful solution under the auspices of the Organization for Security and Co-operation in Europe (OSCE) and the Minsk Group, no political settlement of the conflict has been reached. The self-proclaimed independence of the "NKR" has not been recognised by any State or international organisation.

Military, political and economic influence

Ilaşcu and Others v. Republic of Moldova and Russia

8 July 2004 (Grand Chamber – judgment)

The applicants were arrested in June 1992 at their homes in Tiraspol by people, some of whom wore uniforms of the former United Soviet Socialist Republics (the “USSR”)’s Fourteenth Army. The applicants were accused of anti-Soviet activities and illegally combating the legitimate government of the State of Transdniestria, and were also charged with a number of offences including two murders. In December 1993, the “Supreme Court of the Transdniestrian region” sentenced the first applicant to death and property confiscation, and the other applicants to imprisonment between 12 and 15 years, and property confiscation. The applicants complained, among other things, that the court which had convicted them did not have jurisdiction.

Russia’s jurisdiction: The Court noted that, during the Moldovan conflict in 1991-92, forces of the USSR Fourteenth Army, stationed in Transdniestria, had fought with and on behalf of the Transdniestrian separatist forces. In addition, even after the ceasefire agreement of 21 July 1992, the Russian authorities had continued to provide military, political and economic support to the separatist regime. Further, the transfer of the applicants by Russian soldiers to the separatist regime was also capable of engaging Russian responsibility for the consequences of the acts of that regime. In addition, the Russian army was still stationed in Moldovan territory. Both before and after 5 May 1998, when the Convention came into force with regard to Russia, the Transdniestrian region remained under the effective authority, or at the very least under the decisive influence, of Russia. In any event, it survived by virtue of the military, economic, financial and political support that Russia gave it. Consequently, there was a continuous and uninterrupted link of responsibility on the part of Russia for the applicants’ fate. The applicants therefore came within Russia’s jurisdiction and its responsibility was engaged with regard to the acts of which they complained.

Ivanțoc and Others v. the Republic of Moldova and Russia

15 November 2011 (judgment)

The case concerned the continued detention after 8 July 2004, as well as restrictions on contact with their family, of two men in the unrecognised state known as the “Moldovan Republic of Transdniestria” (the “MRT”) for terrorist activities allegedly committed during the Transdniestrian armed conflict of 1991-1992, despite the 2004 Court judgment in the case of *Ilaşcu and Others* (see above) holding that Russia and Moldova should ensure their immediate release. They were ultimately released in June 2007.

The Court found that, even after the *Ilaşcu and Others* judgment (see above), and at least until the applicants’ release in June 2007, Russia continued to enjoy a close relationship with the “MRT”, providing political, financial and economic support to the separatist regime. Russia continued to do nothing either to prevent the violations of the Convention allegedly committed after 8 July 2004 or to put an end to the applicants’ situation brought about by the Russian authorities. The applicants therefore continued to be within the jurisdiction of Russia until the two first applicants were released, under Article 1 (obligation to respect human rights) of the Convention, and Russia’s responsibility was therefore engaged with regard to the acts complained of.

Catan and Others v. the Republic of Moldova and Russia

19 October 2012 (Grand Chamber – judgment)

This case concerned the complaint by children and parents from the Moldovan community in Transdniestria about the effects of a language policy adopted in 1992 and 1994 by the separatist regime forbidding the use of the Latin alphabet in schools and the subsequent measures taken to enforce the policy. Those measures included the forcible eviction of pupils and teachers from Moldovan/Romanian-language schools as well as forcing the schools to close down and reopen in different premises.

In this judgment the Court maintained its findings in the *Ilașcu and Others* judgment (see above) that, during the period 2002-2004, the “Moldovan Republic of Transdnistria” (the “MRT”) had been able to survive only because of Russian military, economic and political support. Accordingly, it found that the facts complained of by the applicants in the present case fell within Russia’s jurisdiction.

Mozer v. the Republic of Moldova and Russia

23 February 2016 (Grand Chamber – judgment)

This case concerned the detention of a man suspected of fraud, as ordered by the courts of the self-proclaimed “Moldavian Republic of Transdnistria” (the “MRT”). The applicant complained in particular that he had been arrested and detained unlawfully by the “MRT authorities” and that he had been absent from some of the hearings concerning his detention pending trial. He further maintained that he had not been given the medical assistance required by his condition and that he had been held in inhuman conditions of detention. Moreover, he complained that he had been prevented from seeing his parents and his pastor. He finally complained that he did not have an effective remedy in respect of these complaints. The applicant maintained that his complaints fell within the jurisdiction of both Moldova and Russia.

The Court came to the conclusion that the facts complained of fell within the jurisdiction of both the Republic of Moldova and of Russia under Article 1 (obligation to respect human rights) of the Convention. It observed in particular that, although Moldova had no effective control over the acts of the “MRT” in Transdnistria, the fact that the region was recognised under public international law as part of Moldova’s territory gave rise to an obligation for that State, under Article 1, to use all the legal and diplomatic means available to it to continue to guarantee the enjoyment of the rights under the Convention to those living there. As regards Russia, the Court maintained the findings it had made in previous cases, to the effect that the “MRT” was only able to continue to exist because of Russian military, economic and political support. In those circumstances, the region’s high level of dependency on Russian support gave a strong indication that Russia continued to exercise effective control and decisive influence over the “MRT” authorities. In the present case, the Court concluded that the Republic of Moldova, having fulfilled its obligations in respect of the applicant by making significant legal and diplomatic efforts to support him, had not violated his rights under the Convention. At the same time, having regard to its finding that Russia had exercised effective control over the “MRT” during the period in question, the Court concluded that Russia was responsible for the violations of the Convention.

State’s acts occurring on territory outside of ECHR space

State security forces acting abroad

Sanchez Ramirez v. France

24 June 1996 (decision of the European Commission of Human Rights⁴)

The applicant essentially complained about his deprivation of liberty by the French authorities. In August 1994, Sudanese police officers had kidnapped and handed him over to French police officers, who had put him onto a French military plane, taken him to a French military base and, once there, had served him with an arrest warrant issued by a French judge in connection with an 1982 car bomb explosion in Paris.

The European Commission of Human Rights noted that the applicant had been taken into the custody of French police officers and deprived of his liberty in a French military aeroplane. Therefore, from the time of his handing over to the French officers, the applicant was effectively under the authority, and therefore the jurisdiction, of France, even if that authority was, in the circumstances, being exercised abroad.

⁴. See footnote 1 above.

Öcalan v. Turkey

12 May 2005 (Grand Chamber – judgment)

At the time of the events in question, the Turkish courts had issued seven warrants for the applicant's arrest and a wanted notice (red notice) had been circulated by Interpol. He was accused of founding an armed gang in order to destroy the integrity of the Turkish State and of instigating terrorist acts resulting in loss of life. In February 1999, in disputed circumstances, he was taken on board an aircraft at Nairobi (Kenya) airport and arrested by Turkish officials. He was then flown to Turkey. The applicant complained that Turkey had violated a number of his Convention rights.

The Court noted that the applicant had been arrested by members of the Turkish security forces inside an aircraft registered in Turkey in the international zone of Nairobi Airport. It was common ground that, directly after being handed over to the Turkish officials by the Kenyan officials, the applicant had been effectively under Turkish authority and therefore within its jurisdiction, even though in that instance Turkey exercised its authority outside its territory. It was true that the applicant had been physically forced to return to Turkey by Turkish officials and had been under their authority and control following his arrest and return to Turkey.

Military intervention not exercising effective control

Banković and Others v. Belgium and 16 Other Contracting States

19 December 2001 (Grand Chamber – decision on the admissibility)

This application was brought by six people living in Belgrade (Serbia) against 17 NATO Member States which were also Contracting States to the European Convention on Human Rights. The applicants complained in particular about the bombing by NATO, as part of its campaign of air strikes against during the Kosovo conflict, of the Serbian Radio-Television headquarters in Belgrade which caused damage to the building and several deaths.

The Court was satisfied that, while international law did not exclude a State's exercise of jurisdiction extra-territorially, jurisdiction was, as a general rule, defined and limited by the sovereign territorial rights of the other relevant States. It found that other bases of jurisdiction were exceptional and required special justification in the particular circumstances of each case. The Court further observed that the Convention was a multi-lateral treaty operating in an essentially regional context and notably in the legal space of the Contracting States. The then Federal Republic of Yugoslavia clearly did not fall within that legal space. The Court was therefore not persuaded that there was any jurisdictional link between the victims and the respondent States and declared the application inadmissible.

Issa and Others v. Turkey

16 November 2004 (judgment)

According to the applicants, Iraqi nationals, a group of their relatives – shepherds from an Iraqi province near the Turkish border – encountered Turkish soldiers in the hills who were allegedly carrying out military operations in the area and who immediately abused and assaulted them. Following the withdrawal of the Turkish troops from the area, the bodies of the shepherds were found with bullet wounds and severely mutilated.

The Court recalled that the concept of "jurisdiction" under the Convention was not restricted to the national territory of the Contracting Parties. In exceptional circumstances the acts of Contracting States performed outside their territory, or which produced effects there, might amount to exercise by them of their jurisdiction. Accountability in such situations stemmed from the fact that Article 1 (obligation to respect human rights) of the Convention could not be interpreted so as to allow a Contracting State to perpetrate violations of the Convention on the territory of another State, which it could not perpetrate on its own territory. However, the Court was unable to determine, on the basis of the evidence available to it, whether the applicants' relatives had been killed by gunfire coming from Turkish troops. The Court was

accordingly not satisfied that the applicants' relatives had been within Turkish jurisdiction for the purposes of Article 1 of the Convention.

Saddam Hussein v. Albania, Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Turkey, Ukraine and the United Kingdom

14 march 2006 (decision on the admissibility)

The applicant, former president of Iraq, complained about his arrest, detention and transfer to the Iraqi authorities and about his ongoing trial and its outcome. He maintained that he fell within the jurisdiction of all the respondent States because they were the occupying powers in Iraq, because he was under their direct authority and control or because they were responsible for the acts of their agents abroad. He further argued that he remained within their jurisdiction following the transfer of authority, and his transfer, to the Iraqi authorities in June 2004 because the respondent States remained in *de facto* control in Iraq.

The Court observed that coalition forces, led by a US General, invaded Iraq in March 2003. While the greater part of the forces and support came from the United States and the United Kingdom, it assumed for the purposes of the case that the coalition forces included support from each of the States parties to the Convention enumerated in the complaint. However, it found that the applicant had not addressed each respondent State's role and responsibilities or the division of labour / power between them and the US. In addition, he had not indicated which respondent State (other than the US) had any (and, if so, what) influence or involvement in his arrest, detention and handover. Accordingly, the Court held that there was no jurisdictional link between the applicant and the respondent States within the meaning of Article 1 (obligation to respect human rights) of the Convention.

Behrami and Behrami v. France

31 May 2007 (Grand Chamber – decision on the admissibility)

At the time of the events Mitrovica was within the sector of Kosovo for which a multinational brigade led by France was responsible; it was one of four brigades making up the international security force (KFOR) presence in Kosovo, mandated by UN Security Council Resolution 1244 of June 1999. In March 2000, a boy was playing in that area with his friends when they found and exploded an un-detonated cluster bomb, dropped during the 1999 bombardment by NATO. The bomb killed one of the children and seriously injured another one. Following a refusal to bring criminal proceedings in relation with the incident, the applicants claimed that the children's death and injuries were caused by the failure of the French KFOR troops to mark and / or defuse the un-detonated cluster bombs which KFOR had known to be present on the site in question.

The Court considered that the question raised by the case was less whether France exercised extra-territorial jurisdiction in Kosovo but, far more centrally, whether the Court was competent to examine under the Convention the contribution of France to the relevant civil and security presence exercising control of Kosovo. It found that the supervision of de-mining in Kosovo fell within the mandate of the United Nations Interim Administration Mission in Kosovo (UNMIK), hence the UN, given that the UN Security Council had passed Resolution 1244 establishing UNMIK and KFOR. The UN had a legal personality separate from that of its member States and was not a Contracting Party to the Convention. Since UNMIK and KFOR relied for their effectiveness on support from member States, the Convention could not be interpreted in a manner which would subject Contracting Parties' acts or omissions to the scrutiny of the Court. To do so would be to interfere with the fulfilment of the UN's key mission to preserve peace. The Court concluded that it was not necessary to examine the question of its competence to hear complaints against France about extra-territorial acts or omissions.

Military intervention exercising effective control

Markovic and Others v. Italy

14 December 2006 (Grand Chamber – judgment)

This application concerned an action in damages brought by the applicants in the Italian courts in respect of the deaths of their relatives as a result of air strikes on 23 April 1999 by the NATO alliance against the Federal Republic of Yugoslavia.

The Court held that once the applicants had brought a civil action in the Italian courts, there indisputably existed a jurisdictional link for the purposes of Article 1 (obligation to respect human rights) of the Convention.

Pad and Others v. Turkey

28 June 2007 (decision on the admissibility)

This application concerned the alleged killing of seven Iranian men in North-West Iran by Turkish soldiers in May 1999. Turkey admitted to having bombed the area from a helicopter as it had suspected that terrorists had been there at the time of the events. It also submitted that, in order to maintain good relations with Iran, it had agreed to pay the amount of compensation claimed by the Iranian authorities for the killings. The victims' families refused to take the money.

The Court reiterated in particular that a State may be held accountable for Convention violations of people who were in the territory of another State which was not part of the legal space of the Contracting States, but who were found to be under the former State's authority and control through its agents operating – whether lawfully or unlawfully – in the latter State. In the instant case, it was not disputed by the parties that the victims of the alleged events came within the jurisdiction of Turkey. The Court found that it was not required to determine the exact location of the events, given that the Turkish Government had already admitted that the fire discharged from its helicopters had caused the killing of the applicants' relatives. Accordingly, the victims had been within the jurisdiction of Turkey at the material time.

Military presence

Al-Saadoon and Mufdhi v. the United Kingdom

30 June 2009 (decision on the admissibility)⁵

This case concerned the complaint by two Iraqi nationals, accused of involvement in the murder of two British soldiers shortly after the invasion of Iraq in 2003, that the British authorities in Iraq had transferred them to Iraqi custody, so putting them at real risk of an unfair trial followed by execution by hanging.

The Court considered that the United Kingdom authorities had had total and exclusive control, first through the exercise of military force and then by law, over the detention facilities in which the applicants were held. It found that the applicants had been within the United Kingdom's jurisdiction and had remained so until their physical transfer to the custody of the Iraqi authorities on 31 December 2008.

Al-Skeini and Others v. the United Kingdom

7 July 2011 (Grand Chamber – judgment)

This case concerned the deaths of six close relatives of the applicants in Al-Basrah, Southern Iraq, in 2003 while the United Kingdom was an occupying power: three of the victims were shot dead or shot and fatally wounded by British soldiers; one was shot and fatally wounded during an exchange of fire between a British patrol and unknown gunmen; one was beaten by British soldiers and then forced into a river, where he drowned; and one died at a British military base, with 93 injuries identified on his body.

The principal issue in this case was whether the European Convention on Human Rights applied in respect of the killing of Iraqi civilians in Iraq by British soldiers between May and November 2003. The Court had to decide whether the applicants' relatives fell within

⁵. On 2 March 2010 the Court delivered its [judgment](#) in the case.

the jurisdiction of the United Kingdom within the meaning of Article 1 (obligation to respect human rights) of the Convention.

The Court referred in particular to its previous case-law in which it held that a State is normally required to apply the Convention only within its own territory. An extra-territorial act would fall within the State's jurisdiction under the Convention only in exceptional circumstances. One such exception established in the Court's case-law was when a State bound by the Convention exercised public powers on the territory of another State.

In the present case, following the removal from power of the Ba'ath regime and until the accession of the Iraqi Interim Government, the United Kingdom (together with the United States) assumed in Iraq the exercise of some of the public powers normally to be exercised by a sovereign government. In particular, the United Kingdom assumed authority and responsibility for the maintenance of security in South East Iraq. In those exceptional circumstances, a jurisdictional link existed between the United Kingdom and individuals killed in the course of security operations carried out by British soldiers during the period May 2003 to June 2004. Since the applicants' relatives were killed in the course of United Kingdom security operations during that period, the United Kingdom was required to carry out an investigation into their deaths.

Al-Jedda v. the United Kingdom

7 July 2011 (Grand Chamber – judgment)

This case concerned the internment of an Iraqi civilian for more than three years (2004-2007) in a detention centre in Basrah, Iraq, run by British forces. The Government of the United Kingdom maintained that the applicant's internment was attributable to the United Nations (UN) and not to the United Kingdom.

The Court noted that, at the time of the invasion in March 2003, there was no UN Security Council resolution providing for the allocation of roles in Iraq if the existing regime was displaced. In May 2003 the United Kingdom and the United States, having displaced the previous regime, assumed control over the provision of security in Iraq; the UN was allocated a role in providing humanitarian relief, supporting the reconstruction of Iraq and helping in the formation of an Iraqi interim government, but had no role as regards security. The Court did not consider that subsequent UN Security Council Resolutions altered that position. As the UN Security Council had neither effective control nor ultimate authority and control over the acts and omissions of troops within the Multi-National Force, the applicant's internment was not attributable to the UN. It took place within a detention facility in Basrah City, controlled exclusively by British forces. The applicant was therefore within the authority and control of the United Kingdom throughout. The Court therefore agreed with the majority of the House of Lords that the applicant's internment was attributable to the United Kingdom and that, while interned, he fell within the jurisdiction of the United Kingdom for the purposes of Article 1 (obligation to respect human rights) of the Convention.

Hassan v. the United Kingdom

16 September 2014 (Grand Chamber – judgment)

This case concerned the capture of the applicant's brother by British armed forces and his detention at Camp Bucca in Iraq (close to Um Qasr). The applicant alleged in particular that his brother had been arrested and detained by British forces in Iraq and that his dead body, bearing marks of torture and execution, had subsequently been found in unexplained circumstances.

The Court held that the applicant's brother had been within the jurisdiction of the United Kingdom between the time of his arrest by British troops, in April 2003, until his release from the bus that had taken him from Camp Bucca under military escort to a drop-off point, in May 2003. The Court was in particular not persuaded by the Government of the United Kingdom's argument that jurisdiction should not apply in the active hostilities phase of an international armed conflict, where the agents of the Contracting State were operating in territory of which they were not the occupying power, and where the conduct of the State should instead be subject to the requirements of international

humanitarian law. Nor did the Court accept the Government's other argument for excluding jurisdiction in so far as the period after the applicant's brother had entered Camp Bucca was concerned as it involved a transfer of custody from the United Kingdom to the United States. Lastly, it was clear that the applicant's brother, when taken to the civilian holding area for release, had remained in the custody of armed military personnel and under the authority and control of the United Kingdom until the moment he had been let off the bus that took him from the Camp.

Jaloud v. the Netherlands

20 November 2014 (Grand Chamber – judgment)

This case concerned the investigation by the Netherlands authorities into the circumstances surrounding the death of an Iraqi civilian (the applicant's son) who died of gunshot wounds in Iraq in April 2004 in an incident involving Netherlands Royal Army personnel. The applicant complained that the investigation into the shooting of his son had neither been sufficiently independent nor effective.

The Court established that the complaint about the investigation into the incident – which had occurred in an area under the command of an officer of the armed forces of the United Kingdom – fell within the jurisdiction of the Netherlands within the meaning of Article 1 (obligation to respect human rights) of the Convention. It noted in particular that the Netherlands was not divested of its jurisdiction solely because it had accepted the operational control of a United Kingdom officer. As was clear from a letter by the Ministers of Foreign Affairs and of Defence to the Parliament of the Netherlands, of June 2003, concerning the participation of Netherlands forces in the Stabilisation Force in Iraq, the Netherlands had retained full command over its military personnel in Iraq. It also followed from an excerpt of the Memorandum of Understanding for Multinational Division South-East, to which the Netherlands Government had given the Court access, that the drawing up of distinct rules on the use of force had remained in the domain of individual sending States. While the checkpoint where the shooting happened had nominally been manned by Iraqi ICDC (Iraqi Civil Defence Force) personnel, the ICDC had been supervised by officers from the coalition forces. In view of these considerations the Court found that the Netherlands troops had not been at the disposal of any power, whether Iraq or the United Kingdom.

Acts in high seas

Medvedev and Others v. France

23 March 2010 (Grand Chamber – judgment)

The applicants were crew-members of a cargo vessel registered in Cambodia. As the French authorities suspected the vessel was carrying significant quantities of narcotics for distribution in Europe, the French Navy apprehended it off the shores of Cap Verde and confined the crew to their quarters on board under French military guard. The applicants submitted that they had been deprived of their liberty unlawfully, particularly as the French authorities had not had jurisdiction.

The Court held that France had exercised full and exclusive control over the Cambodian vessel and its crew, at least de facto, from the time of its interception, in a continuous and uninterrupted manner. Besides the interception of the vessel, its rerouting had been ordered by the French authorities, and the crew had remained under the control of the French military throughout the voyage to Brest in France. Accordingly, the applicants had been effectively within France's jurisdiction.

Hirsi Jamaa and Others v. Italy

23 February 2012 (Grand Chamber – judgment)

The case concerned Somalian and Eritrean migrants travelling from Libya who had been intercepted at sea by the Italian authorities and sent back to Libya.

The Court found that the applicants had fallen within the jurisdiction of Italy for the purposes of Article 1 (obligation to respect human rights) of the Convention. It reiterated the principle of international law, enshrined in the Italian Navigation Code, that a vessel

sailing on the high seas was subject to the exclusive jurisdiction of the State of the flag it was flying. The events had taken place entirely on board ships of the Italian armed forces, the crews of which had been composed exclusively of Italian military personnel. In the period between boarding the ships and being handed over to the Libyan authorities, the applicants had been under the continuous and exclusive de jure and de facto control of the Italian authorities. Accordingly, the events giving rise to the alleged violations had fallen within Italy's jurisdiction within the meaning of Article 1 of the Convention.

State's act on its own territory producing effect in another State

Soering v. the United Kingdom

7 July 1989 (judgment)

The applicant, a German national, was detained in a prison in England pending extradition to the United States of America (USA) to face murder charges for killing his girlfriend's parents. He complained that, despite the diplomatic assurances, he risked being sentenced to death if extradited to the USA. He maintained in particular that, because of the "death row phenomenon" where people spent several years in extreme stress and psychological trauma awaiting to be executed, if extradited, he would be subjected to inhuman and degrading treatment and punishment.

The Court recalled that the Convention did not govern the actions of States not parties to it, nor did it require the Contracting States to impose Convention standards on other States. However, the decision by a Contracting State to extradite someone might engage that State's responsibility under the Convention where a risk existed that the person would be tortured or otherwise ill-treated if extradited. There was no question of establishing the responsibility of the receiving country. Under the Convention liability was incurred by the extraditing Contracting State because of its action which exposed an individual to prohibited ill-treatment. The Court concluded that the United Kingdom would violate Article 3 (prohibition of torture or inhuman or degrading treatment or punishment) of the Convention if it extradited the applicant to the USA.

Mohammed Ben El Mahi and Others v. Denmark

11 December 2006 (decision on the admissibility)

The applicants were a Moroccan national living in Morocco and two Moroccan associations operating in that country. In September 2005, a privately owned Danish newspaper published twelve cartoon caricatures of Prophet Muhammad, the most controversial of which showed him with a bomb in his turban. Several Muslim organisations in Denmark subsequently complained to the Danish police that the cartoons invoked blasphemy and religious insult. Following the prosecutor's refusal to initiate criminal proceedings against the newspaper, the applicants complained that Denmark had permitted that publication.

The Court recalled in particular that only in exceptional circumstances may the acts of Contracting States performed outside their territory or which produce effects there amount to an exercise by them of their jurisdiction within the meaning of Article 1 (obligation to respect human rights) of the Convention. Accountability in such situations stems from the fact that Article 1 cannot be interpreted so as to allow a State Party to perpetrate violations of the Convention on the territory of another State which it would not be permitted to perpetrate on its own territory. Such exceptions were however not at issue in the present case. Here, the applicants were, respectively, a Moroccan national, resident in Morocco, and two Moroccan associations which were based and operated in that country. The Court found that there was no jurisdictional link between any of the applicants and Denmark, nor could the applicants come within the jurisdiction of Denmark on account of any extra-territorial act. Accordingly, the Court had no

competence to examine the applicants' substantive complaints, and it declared the application inadmissible.

Andreou v. Turkey

3 June 2008 (judgment)

The applicant, now deceased, complained that she was shot and injured by the Turkish armed forces on 14 August 1996, during tensions at the United Nations buffer zone near Dherynia (Cyprus), while she had been standing outside the UN buffer zone and in the area which was close to the Greek-Cypriot National Guard checkpoint.

The Court found that the responsibility of Turkey under the Convention was engaged. According to a UN press release on the events, the applicant's injuries had been caused by Turkish and/or Turkish Cypriot uniformed personnel, who had fired into the crowd and who had been at the time of opening fire in the territory of the "Turkish Republic of Northern Cyprus". When the applicant was hit by the bullet, she was standing outside the neutral UN buffer zone and in close vicinity to the Greek-Cypriot National Guard checkpoint. Unlike the applicants in the *Banković and Others* case (see above, page 5) she had accordingly been within territory covered by the Convention. Even though the applicant had sustained her injuries on territory over which Turkey exercised no control, the opening of fire on the crowd from close range, which had been the direct and immediate cause of those injuries, had been such that the applicant should be regarded as within the jurisdiction of Turkey.

Acts of international tribunals having their seat within the territory of a State Party to the ECHR

Djokaba Lambi Longa v. the Netherlands

9 October 2012 (decision on the admissibility)

This case concerned a Congolese national transferred to the International Criminal Court (ICC) to give evidence as a defence witness, who applied for asylum in the Netherlands after giving testimony. The applicant complained that he had been unlawfully held on Netherlands soil and denied an opportunity to seek his release.

Ruling for the first time on the issue of the power to keep individuals in custody of international criminal tribunals having their seat within the territory of a Contracting State, the Court concluded that the applicant, detained on the territory of a Contracting State (the Netherlands) by an international criminal tribunal (the ICC) under arrangements entered into with a State not party to the Convention (the Democratic Republic of the Congo) did not fall within the jurisdiction of the Netherlands. The Court therefore declared the application inadmissible.

Media Contact:

Tel: +33 (0)3 90 21 42 08