

## Recent Case Law of International Courts

### Presentation Topics

#### I. USE OF FORCE

##### **11 October 2023**

1. What is the ICJ's jurisdiction in contentious cases (in other words, which disputes can the ICJ decide)?
2. Explain the ICJ's power to indicate provisional measures. What conditions must be satisfied? What are the legal and practical consequences of provisional measures? Can they be enforced?

#### II. SELF-DETERMINATION

##### **18 October 2023**

3. What is an advisory opinion? Who can request one? What kind of questions may be the subject of an advisory opinion? Use the ICJ's *Wall Opinion* to illustrate your answers and explain why a new advisory opinion regarding related questions was requested in 2023.
4. Explain and critically analyse the declaration of Judge Buergenthal and the separate opinion of Judge Higgins in the *Wall Opinion*.

##### **25 October 2023**

5. According to the ICJ, when and how did the right of peoples to self-determination become part of customary international law and why does this matter for the case at hand?
6. Explain and critically analyse the dissenting opinion of Judge Donoghue in the *Chagos Opinion*.

#### III. CLIMATE CHANGE

##### **1 November 2023**

7. What is the Inter-American Court of Human Rights (IACtHR)? Outline its functions and its jurisdiction.
8. The ICJ and the ECtHR are also expected to issue important rulings on climate change soon. Give an overview of their most prominent pending cases.

##### **8 November 2023**

9. What are the UN Human Rights Committee and the Committee on the Rights of the Child? Outline their functions and their jurisdiction.
10. Most human rights treaty bodies may consider complaints or communications from individuals. In what way do the committees respond? What is the legal effect of their rulings?

#### IV. EXTRATERRITORIAL APPLICATION OF HUMAN RIGHTS TREATIES

##### **15 November 2023**

11. Who can bring an application before the European Court of Human Rights (ECtHR)? What are the admissibility criteria under the ECHR? In what formations can the ECtHR sit and what are the respective competences of these different court formations?
12. Give an overview of the ECtHR's previous case-law concerning extraterritorial application of the ECHR. Focus specifically on the cases of *Banković*, *Al-Skeini* and *Georgia v. Russia (II)* and their role in the evolution of the Court's approach.

##### **22 November 2023**

13. Professors Marko Milanovic and Sangeeta Shah (on behalf of the Human Rights Law Centre of the University of Nottingham) filed an [amicus curiae brief](#) in relation to *Ukraine and the Netherlands v. Russia*. What is an amicus curiae brief? Did the Court follow their suggestions regarding questions of jurisdiction?
14. Compare the approaches of the ICJ, the CRC, the IACtHR and the ECtHR to extraterritorial jurisdiction. Explain the similarities and differences between them.

#### V. ATTRIBUTION OF CONDUCT AND NORM CONFLICT

##### **29 November 2023**

15. In the *Behrami and Saramati* case, how does the ECtHR understand the concept of attribution? How does it explain that the (in)actions at issue are attributable to the UN? What are the consequences of this attribution?
16. Compare the decision in *Behrami and Saramati* to that in *Al-Jedda*. In the latter case, why does the ECtHR come to the opposite conclusion, namely that the actions at issue are *not* attributable to the UN?

##### **6 December 2023**

17. Give a brief description of the UN sanctions regime established by Security Council resolution 1518 (the '1518 Committee'), which led to the *al-Dulimi* case.
18. Explain the dissenting opinion of Judge Nussberger in the *al-Dulimi* case. Do you agree with her criticism of the majority's finding?
21. Attached to the rulings of international courts you often find declarations or separate opinions. Explain the different forms in which members of the ICJ, the ECtHR, the IACtHR, and the Human Rights Committee may express their individual opinions and discuss what the legal significance of such statements is.

#### VI. HUMAN RIGHTS AND STATES' MARGIN OF APPRECIATION

##### **13 December 2023**

19. Explain the concept of 'living together' (or 'vivre ensemble') as used by the ECtHR in the *SAS* case.
20. Discuss how it is possible that the Human Rights Committee and the ECtHR come to different conclusions regarding similar questions. Refer to institutional characteristics of the two (quasi-)judicial bodies as well as to conceptual differences in the two rulings.