

## Recent Case Law of International Courts Topics for Presentation

### Use of force

#### 23 September 2020

1. What is the ICJ's jurisdiction in contentious cases (in other words, which disputes can the ICJ decide)?
2. Explain the concepts of "use of force" and "armed attack" in the international law on the use of force and how they relate to each other. Use the *Oil Platforms* case to illustrate this distinction.

#### 30 September 2020

3. In the *Armed Activities on the Territory of the Congo* case, which requirements would have had to be met so that Uganda's military activities on the territory of the DRC would *not* have constituted a violation of international law? On what grounds did the ICJ conclude that these requirements were not met?
4. Compare and contrast the ICJ's style of reasoning in the *Congo* case to that in the *Oil Platforms* case. Do you see any commonalities and/or differences with regard to how the court approaches these cases, in particular with regard to whether and how it does (or does not) address fundamental issues concerning the international law on the use of force?

### Self-determination

#### 7 October 2020

5. 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.
6. Explain and critically analyse the declaration of Judge Buergenthal and the separate opinion of Judge Higgins in the *Wall Opinion*.

#### 14 October 2020

7. 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?
8. Explain and critically analyse the dissenting opinion of Judge Donoghue in the *Chagos Opinion*.

### State immunity

#### 21 October 2020

9. What are the legal sources of the rule of state immunity? What methods does the ICJ use in the *Jurisdictional Immunities of the State* case to assess whether, and to what extent, state immunity has become part of customary international law?
10. In light of the *Jurisdictional Immunities of the State* and the *Arrest Warrant* cases, which entities and persons enjoy immunity?

#### 28 October 2020

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. Explain the guarantee of Article 6 ECHR and in particular the scope of application of the right of access to a court according to Article 6(1), making reference to the cases of *Cudak* and *Jones*.

### **Freedom of religion**

#### **4 November 2020**

13. Explain the concept of “living together” (or *le “vivre ensemble”*) as used by the ECtHR.
14. What is the UN Human Rights Committee (HRC)? Outline its functions and its jurisdiction.

#### **11 November 2020**

15. Explain the ECtHR’s concept of “margin of appreciation” and what role this concept plays in the *Osmanoğlu and Kocabaş* case.
16. Could Mr Osmanoğlu and Ms Kocabaş submit an application to the UN Human Rights Committee? Speculate on how the Committee might decide a case such as *Osmanoğlu and Kocabaş*.

### **Extraterritorial application of human rights treaties**

#### **18 November 2020**

17. Compare and contrast the jurisdiction clauses (or the lack thereof) in the ICCPR, the ICESCR, the CRC and the ECHR and point out potential differences in their application.
18. Explain the general rules for the interpretation of treaties under international law. How did the ECtHR apply these rules in the case of *Bankovic*?

#### **25 November 2020**

19. In the context of jurisdiction, what does the ECtHR mean by “the territorial principle”? What are, according to the Court, the exceptions to the territorial principle?
20. Compare the findings in *Bankovic* to those in *Al-Skeini*. Are the two decisions reconcilable?

### **Attribution of conduct and norm conflict**

#### **2 December 2020**

21. 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?
22. 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?

#### **9 December 2020**

23. Give a brief description of the UN sanctions regime established by Security Council resolution 1267 (the “1267/1989 Committee”), which led to the *Sayadi* case, and that established by Security Council resolution 1518 (the “1518 Committee”), which led to the *al-Dulimi* case.
24. Explain the dissenting opinion of Judge Nussberger in the *al-Dulimi* case. Do you agree with her criticism of the majority’s finding?