

The United Kingdom ("UK") thanks the International Law Commission ("Commission") for the opportunity to submit written comments in response to its request for information contained in Chapter III of the Commission's Report of its 66th Session to the United Nations General Assembly (A/69/10). The UK has the following comments:

Immunity of State officials from foreign criminal jurisdiction

"The Commission requests States to provide information, by 31 January 2015, on their domestic law and their practice, in particular judicial practice, with reference to the following issues:

- a) *the meaning given to the phrases "official acts" and "acts performed in an official capacity" in the context of the immunity of State officials from foreign criminal jurisdiction, and*
- b) *any exceptions to immunity of State officials from foreign criminal jurisdiction "*

United Kingdom response

As noted in the United Kingdom's response to Chapter 3 of the Commission's Report of its 66th Session, the meaning of the phrases "official acts" and "acts performed in an official capacity" were considered in the following UK judicial decisions:

- 1 *Jones v Saudi Arabia*, House of Lords, 14 June 2006¹,
- 2 *R v Bow Street Metropolitan Stipendiary Magistrate Ex p Pinochet Ugarte (No 3)*, House of Lords, 24 March 1999²,
- 3 *Propend Finance Pty Ltd v Sing*, Court of Appeal, 14 March 1996³,
- 4 *Zoernsch v Waldock*, Court of Appeal, 24 March 1964⁴

The immunity *ratione materiae* of State officials from foreign criminal jurisdiction, and in particular the existence of any exceptions, was considered in the following UK judicial decisions:

- 1 *R v Bow Street Metropolitan Stipendiary Magistrate Ex p Pinochet Ugarte (No 3)*, House of Lords, 24 March 1999⁵,
- 2 *Khurts Bat v Investigating Judge of the Federal Court of Germany*, Divisional Court, 29 July 2011⁶

¹ [2006] UKHL 26, [2007] 1 A C 270, available online at <http://www.bailii.org/uk/cases/UKHL/2006/26.html>, there was a related judgment of the European Court of Human Rights which was published on 14 January 2014 [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-140005#{"itemid":"001-140005"}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-140005#{)

² [2000] 1 A C 147, [1999] 2 W L R 827, available online at <http://www.bailii.org/uk/cases/UKHL/1999/17.html>

³ (1997) 111 ILR 611, CA, a copy of the judgment is enclosed

⁴ [1964] 1 W L R 675, [1964] 2 All E R 256, available online

⁵ As above

⁶ [2011] EWHC 2029 (Admin), [2013] Q B 349, available online at <http://www.bailii.org/ew/cases/EWHC/Admin/2011/2029.html>