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UNITED NATIONS JURIDICAL YEARBOOK

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Part Three. Judicial decisions on questions relating the United Nations and related
intergovernmental organizations

Chapter VII. Decisions and advisory opinions of international tribunals



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Part Three

**JUDICIAL DECISIONS ON QUESTIONS RELATING TO THE
UNITED NATIONS AND RELATED
INTERGOVERNMENTAL ORGANIZATIONS**

Chapter VII

DECISIONS AND ADVISORY OPINIONS OF INTERNATIONAL TRIBUNALS

A. INTERNATIONAL COURT OF JUSTICE¹

The International Court of Justice is the principal judicial organ of the United Nations. It was established in June 1945 by the Charter of the United Nations and began work in April 1946.

1. Judgments

- (i) *Certain Property (Liechtenstein v. Germany)*, Preliminary Objections, Judgment, 10 February 2005.
- (ii) *Frontier Dispute (Benin v. Niger)*, Judgment, 12 July 2005.

2. Advisory Opinions

No advisory opinions were delivered by the International Court of Justice in 2005.

3. Pending cases as at 31 December 2005

- (i) *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)* (2005-).
- (ii) *Maritime Delimitation in the Black Sea (Romania v. Ukraine)* (2004-).
- (iii) *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia v. Singapore)* (2003-).
- (iv) *Certain Criminal Proceedings in France (Republic of the Congo v. France)* (2003-).

¹ The texts of the judgments, advisory opinions and orders are published in the *I.C.J. Reports*. Summaries of the judgments, advisory opinions and orders of the Court are provided in English and French on its website at <http://www.icj-cij.org>. In addition, the summaries can also be found in *Summaries of Judgments, Advisory Opinions and Orders of the International Court of Justice* (United Nations Publication, ST/LEG/SER.F/1 and Add.1 and 2), which is published in the six official languages of the United Nations. The summaries of the decisions listed above will appear in the third addendum to this publication covering the period from 2003 to 2007. See also Chapter III A, section 14, above.

- (v) *Territorial and Maritime dispute (Nicaragua v. Colombia)* (2001-).
- (vi) *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)* (1999-).
- (vii) *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro)* (1999-).
- (viii) *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* (1999-).
- (ix) *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)* (1998-).
- (x) *Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)* (1993-).

B. INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA²

The International Tribunal for the Law of the Sea is an independent permanent tribunal established by the United Nations Convention on the Law of the Sea, 1982.³ The Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea, signed by the Secretary-General of the United Nations and the President of the Tribunal on 18 December 1997, establishes a mechanism for cooperation between the two institutions.⁴

1. Judgments

No judgments were delivered by the International Tribunal for the Law of the Sea in 2005.

2. Pending cases as at 31 December 2005

Case No. 7—Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-Eastern Pacific Ocean (Chile v. European Community) (2000-).

² For more information about the Tribunal's activities, including relating to orders rendered in 2005, see the Annual report of the International Tribunal for the Law of the Sea for 2005 (SPLOS/136) and the Tribunal's website at www.itlos.org. See also the *Reports of Judgments, Advisory Opinions and Orders/Recueil des arrêts, avis consultatifs et ordonnances*, Volume 9 (2005), Martinus Nijhoff Publishers, 2008.

³ United Nations, *Treaty Series*, vol. 1833, p. 3.

⁴ United Nations, *Treaty Series*, vol. 2000, p. 468.

C. INTERNATIONAL CRIMINAL COURT⁵

The International Criminal Court (ICC) is an independent permanent court established by the Rome Statute of the International Criminal Court, 1998.⁶ As at 31 December 2005, in accordance with the Statute and the Rules of Procedure and Evidence, the Prosecutor had opened investigations into four situations.

(i) *Situation in the Democratic Republic of the Congo ICC-01/04*

In 2005, no indictment or significant decision was made following the opening of the first investigation by the ICC concerning the situation of the Democratic Republic of the Congo in June 2004.

(ii) *Situation in Uganda ICC-02/04*

On 6 May 2005, following the opening of an investigation into the situation concerning Northern Uganda in 2004, the Prosecutor presented an application to the Pre-Trial Chamber for arrest warrants for five of the most senior commanders of the Lord's Resistance Army. On 8 July 2005, the Pre-Trial Chamber issued the five arrest warrants for crimes against humanity and war crimes committed in Uganda since July 2002 (*The Prosecutor v. Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen* (ICC-02/04–01/05)).

(iii) *Situation in the Central African Republic ICC-01/05*

In January 2005, the Prosecutor announced a referral by the Government of the Central African Republic concerning the situation of crimes within the jurisdiction of the Court committed anywhere on the territory of the Central African Republic since 1 July 2002, the date of entry into force of the Rome Statute. Thus, the Presidency of the ICC assigned the situation in the Central African Republic to Pre-Trial Chamber III.

(iv) *Situation in Darfur, the Sudan ICC-02/05*

Following the recommendation made by the International Commission of Inquiry on Darfur⁷ to the United Nations Secretary General on 25 January 2005, the Security Council referred the situation in Darfur to the Prosecutor of the ICC by resolution 1593 of 31 March 2005. The Council requested the Sudan and all other parties to the conflict in Darfur to cooperate with the Court. On the basis of a preliminary examination of the situation, on 1 June 2005, the Prosecutor opened an investigation into the situation in Darfur.

⁵ For more information about the Court's activities, see Report of the International Criminal Court (A/60/177 and A/61/217). See also the Court's website at <http://www.icc-cpi.int/>.

⁶ United Nations, *Treaty Series*, vol. 2187, p. 3.

⁷ Acting under Chapter VII of the Charter of the United Nations, on 18 September 2004, the Security Council adopted resolution 1564 requesting, *inter alia*, that the Secretary-General "rapidly establish an international commission of inquiry in order immediately to investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable". On 7 October 2004, the International Commission of Inquiry on Darfur was established by the Secretary-General. For the Commission's report, see (S/2005/60).

D. INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA⁸

The International Criminal Tribunal for the former Yugoslavia is a subsidiary body of the United Nations Security Council. The Tribunal was established by Security Council resolution 827 of 25 May 1993.⁹

1. Judgements delivered by the Appeals Chamber

- (i) *Prosecutor v. Dragan Nikolić*, Case No. IT-94-2-A, “Susica Camp”, Judgement on Sentencing Appeal, 4 February 2005.
- (ii) *Prosecutor v. Miroslav Kvočka, Milojica Kos, Mlađo Radić, Zoran Žigić and Dragoljub Prać*, Case No. IT-98-30/1, “Omarska and Keraterm Camp”, Judgement, 28 February 2005.
- (iii) *Prosecutor v. Dragan Nikolić*, Case No. IT-94-2-A, “Susica Camp”, Corrigendum to Judgement on Sentencing Appeal, 4 May 2005.
- (iv) *Prosecutor v. Dragan Nikolić*, Case No. IT-94-2-A, “Susica Camp”, Corrigendum to Judgement on Sentencing Appeal, 24 May 2005.
- (v) *Prosecutor v. Babić*, Case No. IT-03-72, Judgement on Sentencing Appeal, 18 July 2005.
- (vi) *Prosecutor v. Deronjic*, Case No. IT-02-61, Judgement on Sentencing Appeal, 20 July 2005.
- (vii) *Prosecutor v. Slobodan Milosevic*, Case No. IT-02-54, Decision on Interlocutory Appeal on Kosta Bulatovic Contempt Proceedings, 29 August 2005 (IT-02-54-A-R77.4).
- (viii) *Prosecutor v. Miodrag Jokić*, Case No. IT-01-42/1, “Dubrovnik”, Judgement on Sentencing Appeal, 30 August 2005.

2. Judgements delivered by the Trial Chambers

- (i) *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60, Judgement, 17 January 2005.
- (ii) *Prosecutor v. Pavle Strugar*, Case No. IT-01-42, “Dubrovnik”, Judgement, 31 January 2005.

⁸ The texts of the indictments, decisions and judgements are published in the *Judicial Reports / Recueils judiciaires* of the International Criminal Tribunal for the former Yugoslavia for each given year. The texts are also available in English and French on the Tribunal’s website at <http://www.un.org/icty/index.html>. For more information about the Tribunal’s activities, see Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (A/60/267-S/2005/532 and A/61/271-S/2006/666). See also chapter III A, section 18, above.

⁹ The Statute of the Tribunal is annexed to the report of the Secretary-General pursuant to Security Council resolution 808 of 22 February 1993 (S/25704 and Add.1).

- (iii) *Prosecutor v. Slobodan Milosevic*, Case No. IT-02-54, Decision on Contempt of the Tribunal (Kosta Bulatovic), 13 May 2005 (IT-02-54-R77.4).
- (iv) *Prosecutor v. Fatmir Limaj, Haradin Bala and Isak Musliu*, Case No. IT-03-66, Judgement on Contempt Allegations (Beqa Beqaj), 27 May 2005 (IT-03-66-T-R77).
- (v) *Prosecutor v. Sefer Halilović*, Case No. IT-01-48, “Grabovica-Uzdol”, Judgement, 16 November 2005.
- (vi) *Prosecutor v. Fatmir Limaj, Haradin Bala and Isak Musliu*, Case No. IT-03-66, Judgement, 30 November 2005.
- (vii) *Prosecutor v. Bralo*, Case No. IT-95-17, “Lasva Valley”, Sentencing Judgement, 7 December 2005.

E. INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA¹⁰

The International Criminal Tribunal for Rwanda is a subsidiary body of the United Nations Security Council. The Tribunal was established by Security Council resolution 955 of 8 November 1994.¹¹

1. Judgements delivered by the Appeals Chamber

- (i) *Laurent Semanza v. Prosecutor*, Case No. ICTR-97-20-A, Judgement, 20 May 2005.
- (ii) *Juvénal Kajelijeli v. Prosecutor*, Case No. ICTR-98-44A-A, Judgement, 23 May 2005.
- (iii) *Jean de Dieu Kamuhanda v. Prosecutor*, Case No. ICTR-99-54A-A, Judgement, 19 September 2005.

2. Judgements delivered by the Trial Chambers

- (i) *Prosecutor v. Vincent Rutaganira*, Case No. ICTR-95-1C-T, Judgement and Sentence, 14 March 2005.
- (ii) *Prosecutor v. Mikaeli Muhimana*, Case No. ICTR-95-1B-T, Judgement and Sentence, 28 April 2005.

¹⁰ The texts of the orders, decisions and judgements are published in the *Recueil des Ordonnances, Décisions et Arrêts/Reports of Orders, Decisions and Judgements* for the International Criminal Tribunal for Rwanda. The texts are also available in English and French in the Tribunals Judicial Records Database at <http://www.ictor.org>. For more information about the Tribunal's activities, see: Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (A/60/229-S/2005/534 and A/61/265-S/2006/658). See also chapter III A, section 18, above.

¹¹ The Statute of the Tribunal is contained in the annex to the resolution.

- (iii) *Prosecutor v. Aloys Simba*, Case No. ICTR-01-76-T, **Judgement and Sentence**, 13 December 2005.

F. SPECIAL COURT FOR SIERRA LEONE¹²

The Special Court for Sierra Leone is an independent court established by the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone.¹³

1. Judgements

Other cases

- (i) *Independent Counsel v. Margaret Fomba Brima, Neneh Bah Jalloh, Esther Kamara, Anifa Kamara*, (Case Nos. SCSL-2005-02/03), Sentencing Judgment in Contempt Proceedings, Trial Chamber I, 21 September 2005.
- (ii) *Independent Counsel v. Brima Samura*, (Case No. SCSL-2005-01), Judgment in Contempt Proceedings, Trial Chamber I, 26 October 2005.

2. Decisions of the Appeals Chamber

There were no decisions of the Appeals Chamber pertaining to jurisdictional and other matters relating to the competence of the Court in 2005.

3. Decisions of the Trial Chambers¹⁴

Civil Defence Forces

Prosecutor v. Sam Hinga Norman, Moinina Fofana and Allieu Kondewa, (SCSL-04-T-473), Decision on motions for judgment of acquittal pursuant to rule 98 of the Rules of Procedure and Evidence of the Special Court, 21 October 2005.

G. EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

The Agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed during the period of Democratic Kampuchea, signed in Phnom Penh on 6 June 2003,¹⁵ entered into force the 29 April 2005 and established the Extraordinary Chambers in the Courts of Cambodia to prosecute the crimes committed during the period of Democratic Kampuchea.

¹² The texts of the judgements and decisions are available on the Court's website at <http://www.sc-sl.org>. For more information on the Court's activities, see the Third Annual Report of the President of the Special Court, covering the period from January 2005 to January 2006.

¹³ For the text of the Agreement and the Statute of the Special Court, see United Nations, *Treaty Series*, vol. 2178, p. 137.

¹⁴ Only decisions of the Trial Chambers made pursuant to rule 98 of the Rules of Procedure and Evidence of the Special Court (Motions of judgment of acquittal) are covered in this section.

¹⁵ United Nations, *Treaty Series*, vol. 2328.