An abstract, dark red background with swirling, brush-stroke-like patterns that create a sense of movement and depth. The colors range from deep maroon to almost black tones.

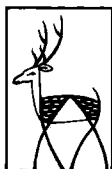
# Europe and Extraterritorial Asylum

Maarten den Heijer

STUDIES IN INTERNATIONAL LAW

# Europe and Extraterritorial Asylum

Maarten den Heijer



• H A R T •  
PUBLISHING

OXFORD AND PORTLAND, OREGON  
2012

Published in the United Kingdom by Hart Publishing Ltd  
16C Worcester Place, Oxford, OX1 2JW  
Telephone: +44 (0)1865 517530  
Fax: +44 (0)1865 510710  
E-mail: [mail@hartpub.co.uk](mailto:mail@hartpub.co.uk)  
Website: <http://www.hartpub.co.uk>

Published in North America (US and Canada) by  
Hart Publishing  
c/o International Specialized Book Services  
920 NE 58th Avenue, Suite 300  
Portland, OR 97213-3786  
USA  
Tel: +1 503 287 3093 or toll-free: (1) 800 944 6190  
Fax: +1 503 280 8832  
E-mail: [orders@isbs.com](mailto:orders@isbs.com)  
Website: <http://www.isbs.com>

© Maarten den Heijer 2012

Maarten den Heijer has asserted his right under the Copyright, Designs and Patents Act 1988, to be identified as the author of this work.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, without the prior permission of Hart Publishing, or as expressly permitted by law or under the terms agreed with the appropriate reprographic rights organisation. Enquiries concerning reproduction which may not be covered by the above should be addressed to Hart Publishing Ltd at the address above.

British Library Cataloguing in Publication Data  
Data Available

ISBN: 978-1-84946-270-9

Typeset by Hope Services, Abingdon  
Printed and bound in Great Britain by  
TJ International Ltd, Padstow, Cornwall



## EUROPE AND EXTRATERRITORIAL ASYLUM

Increasingly, European and other Western states are seeking to control the movement of refugees outside their borders. In order to do this, states have adopted a variety of measures including carrier sanctions, interception of migrants at sea, posting of immigration officers in foreign countries and external processing of asylum-seekers. This book focuses on the legal implications of external mechanisms of migration control for the protection of refugees and irregular migrants. The book explores how refugee and human rights law has responded to the new measures adopted by states, and how states have sought cooperation with other actors in the context of migration control.

The book defends the thesis that when European states attempt to control the movement of migrants outside their territories, they remain responsible under international law for protecting the rights of refugees as well as their general human rights. It also identifies how EU law governs and constrains the various types of pre-border migration enforcement employed by EU Member States, and examines how unfolding practices of external migration control conform to international law.

This is a work which will be essential reading for scholars and practitioners of asylum and refugee law throughout Europe and the wider world.

This book received 'The Max van der Stoep Human Rights Award 2011' (first prize category dissertations); and the 'Erasmianum Study Prize 2011'.

**Volume 39 in the series Studies in International Law**

## **Studies in International Law**

### **Recent titles in this series**

**The International Court of Justice and Self-Defence in  
International Law**

*James A Green*

**State Liability in Investment Treaty Arbitration: Global Constitutional and  
Administrative Law in the BIT Generation**

*Santiago Montt*

**Reappraising the Resort to Force: International Law,  
Jus ad Bellum and the War on Terror**

*Lindsay Moir*

**International Law and Dispute Settlement:  
New Problems and Techniques**

*Edited by Duncan French, Matthew Saul and Nigel White*

**The Democratic Legitimacy of International Law**

*Steven Wheatley*

**Reflections on the UN Declaration on the Rights of Indigenous Peoples**

*Edited by Stephen Allen and Alexandra Xanthaki*

**Contracting with Sovereignty: State Contracts and  
International Arbitration**

*Ivar Alvik*

**Multi-Sourced Equivalent Norms in International Law**

*Edited by Yuval Shany and Tomer Broude*

**The Distinction and Relationship between *Jus ad Bellum* and  
*Jus in Bello***

*Keiichiro Okimoto*

**International Humanitarian Law and Terrorism**

*Andrea Bianchi and Yasmin Naqvi*

**The Militarisation of Peacekeeping in the Twenty-First Century**

*James Sloan*

**Accounting for Hunger: The Right to Food in the Era of Globalisation**

*Edited by Olivier De Schutter and Kaitlin Cordes*

**Promises of States under International Law**

*Christian Eckart*

**Multilevel Regulation of Military and Security Contractors: The Interplay  
between International, European, and Domestic Norms**

*Edited by Christine Bakker and Mirko Sossai*

**For the complete list of titles in this series, see  
'Studies in International Law' link at  
[www.hartpub.co.uk/books/series.asp](http://www.hartpub.co.uk/books/series.asp)**

## *Acknowledgements*

The writing of this book would not have been possible without the support of many friends and colleagues. First and foremost, I want to thank my two supervisors, Pieter Boeles and Rick Lawson, who are indeed true mentors and without whom this book would not have been possible. Pieter and Rick stand in the wonderful tradition of human rights scholarship of the Law School of Leiden University and have taught me how important the study of law is as a guiding beacon in the often emotion-laden debate surrounding the topic of this book. They are responsible for seeing to it that this project came to fruition, and have opened many doors in my young career as a scholar. I owe them a great debt for their stimulation, the confidence they had in me and the pleasant style in which they guided me throughout this project.

I am also grateful to the staff of the Leiden Institute of Immigration Law, and in particular Gerrie Lodder, Kees Wouters, Marcelle Reneman and Peter Rodrigues, for providing not only a most enjoyable working atmosphere, but also the requisite doses of inspiration and feedback in the course of writing this book. It surely helps to have a group of people around who are always prepared to answer questions, to enter into discussions and to critically review draft texts.

Chapters six and seven of this book were written over a number of months in 2010 when I was visiting the University of Melbourne Law School. I thank in particular Professor Jim Hathaway, then Dean, for inviting me, and Michelle Foster for her wonderful support in my daily research activities. I should also thank the graduates, other visiting academics and the staff of the Graduate House for ensuring a socially stimulating stay in Melbourne. Outside the context of the Leiden Law School, thanks are further due to Dorthy Hollenberg of the Dutch Ministry of Home Affairs and Professor André Nollkaemper of the Amsterdam Center of International Law of the University of Amsterdam, for allowing me the occasional spare time to finalise this book.

I was gifted with several outstanding scholars who were prepared to review the manuscript and who provided helpful feedback: professors Christophe Hillion, Gregor Noll, Hemme Battjes, Roel Fernhout, André Nollkaemper, Peter Rodrigues and Nico Schrijver. Thank you, Jorrit Rijpma and Kees Wouters, for keeping my spirits up during the PhD defence. I am also grateful to professors Kees Groenendijk, Jim Hathaway and Steve Peers for acting as external reviewers.

The research for this book was funded by The Netherlands Organisation for Scientific Research (NWO) via a grant under the MaGW Open competition. I also enjoyed the generous support of the EM Meijers Research Institute of the Leiden Law School. Particular thanks must be extended to Kees Waaldijk, Riekje Boumlak, Karin van Heijningen en Esmé ten Donkelaar for all their assistance and advice. I further commend the expert assistance of Hart Publishing throughout the editing and production process. Richard Hart's counsel in revising parts of the text has greatly contributed to the accessibility of the book, as has the copy-editing by Ruth Massey. Rachel Turner ensured that the book was smoothly brought to publication.

Finally, I want to thank my family for their eternal support and confidence. I dedicate this book to three persons in particular. To mum and dad, who have taught me what life has to offer and who have always stimulated me to take up new challenges. And to Jeff, simply for being there.

\*\*\*

The law as stated in the text is current as at 1 May 2011.

Amsterdam  
1 October 2011

## *List of Abbreviations*

ACHR	American Convention on Human Rights
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	United Nations Committee on Economic, Social and Cultural Rights
CERD	United Nations Committee on the Elimination of Racial Discrimination
ComAT	United Nations Committee against Torture
ComRC	United Nations Committee on the Rights of the Child
COREPER	Committee of Permanent Representatives
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CRC	Convention on the Rights of the Child
DISERO	Disembarkation Resettlement Officer
EC	European Community
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECJ	Court of Justice of the European Communities / European Union
EComHR	European Commission of Human Rights
ECOSOC	United Nations Economic and Social Council
ECtHR	European Court of Human Rights
EEC	European Economic Community
EEZ	Exclusive Economic Zone
EP	European Parliament
ETS	European Treaty Series
EU	European Union
EUROSUR	European Border Surveillance System
EWCA	England and Wales Court of Appeal
EWHC	England and Wales High Court
EXCOM	Executive Committee of the High Commissioner's Programme
FRY	Federal Republic of Yugoslavia



Frontex	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
HRC	United Nations Human Rights Committee
IAComHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICTY	International Criminal Tribunal for the former Yugoslavia
IDP	Internally Displaced Person
ILC	International Law Commission
ILO	Immigration Liaison Officer
IMO	International Maritime Organization
IOM	International Organization for Migration
LNTS	League of Nations Treaty Series
NATO	North Atlantic Treaty Organization
OAS	Organization of American States
PCIJ	Permanent Court of International Justice
PEP	Protected Entry Procedure
RABIT	Rapid Border Intervention Teams
RASRO	Rescue at Sea Resettlement Officer
RPP	Regional Protection Programme
SAR	International Convention on Maritime Search and Rescue
SBC	Schengen Borders Code
SIA	Schengen Implementing Agreement
SOLAS	International Convention for the Safety of Life at Sea
SSR	Search and Rescue Region
TFEU	Treaty on the Functioning of the European Union
TRNC	Turkish Republic of Northern Cyprus
UDHR	Universal Declaration of Human Rights
UKHL	United Kingdom House of Lords
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNFICYP	United Nations Peacekeeping Force in Cyprus
UNHCR	United Nations High Commissioner for Refugees
UNTOC	United Nations Convention against Transnational Organized Crime
UNTS	United Nations Treaty Series

UNRIAA	United Nations Reports of International Arbitral Awards
VCCR	Vienna Convention on Consular Relations
VCDR	Vienna Convention on Diplomatic Relations
VCLT	Vienna Convention on the Law of Treaties
VRS	Army of the Republika Srpska ( <i>Vojaska Republike Srpske</i> )

# Table of Cases

## i. Permanent Court of International Justice

<i>Certain questions relating to settlers of German origin in the territory ceded by Germany to Poland</i> , Advisory opinion, 10 September 1923, PCIJ Series B, No 6 .....	62
S.S. 'Lotus' ( <i>France v Turkey</i> ), Judgment, 7 September 1927, PCIJ Series A No 10 .....	19–21, 228

## ii. International Court of Justice

<i>Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)</i> , Judgment, 26 February 2007, General List No 91 .....	63–5, 67, 71, 73, 77–9, 81–2, 93, 95, 98
<i>Application of the International Convention on the Elimination of all Forms of Racial Discrimination (Georgia v Russian Federation) (Provisional Measures)</i> , Order, 15 October 2008, ICJ Reports 2008, p 353 .....	48, 121
<i>Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)</i> , Judgment, 19 December 2005, ICJ Reports 2005, p 168 .....	30–3, 50, 137
<i>Barcelona Traction, Light and Power Company, Limited</i> , Judgment, 5 February 1970, ICJ Reports 1970, p 3 .....	21
<i>Certain Phosphate Lands in Nauru (Nauru v Australia) (Preliminary Objections)</i> , Judgment, 26 June 1992, ICJ Reports 1992, p 240 .....	88
<i>Colombian-Peruvian asylum case</i> , Judgment, 20 November 1950, ICJ Reports 1950, p 266 .....	107–10, 112, 115, 162
<i>Corfu Channel case</i> , Judgment, 9 April 1949, ICJ Reports 1949, p 4 .....	78, 80, 86, 88
<i>Haya de la Torre case</i> , Judgment, 13 June 1951, ICJ Reports 1951, p 71 .....	107
<i>Land, Island and Maritime Frontier Dispute (El Salvador v Honduras) (Application to Intervene)</i> , Judgment, 13 September 1990, ICJ Reports 1990, p 92 .....	88
<i>Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)</i> , Advisory Opinion, 21 June 1971, ICJ Reports 1971, p 16 .....	27, 31, 80

<i>Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory</i> , Advisory Opinion, 9 July 2004, ICJ Reports 2004, p 136 .....	30–2, 49–50, 52, 137
<i>Legality of the Threat or Use of Nuclear Weapons</i> , Advisory Opinion, ICJ Reports 1996, p 226 (8 July 1996) .....	30
<i>Military and Paramilitary Activities in und against Nicaragua</i> (Nicaragua v United States of America) (Merits), Judgment, 27 June 1986, ICJ Reports 1986, p 14 .....	63–5, 67–9, 71, 73, 78, 81–2, 88
<i>Monetary gold removed from Rome in 1943</i> (Preliminary Question), Judgment, 25 June 1954, ICJ Reports 1954, p 19 .....	88
<i>Request for interpretation of the Judgment of November 20th, 1950, in the asylum case</i> , Judgment, 27 November 1950, ICJ Reports, p 395 .....	107
<i>United States Diplomatic and Consular Staff in Tehran</i> , Judgment, 24 May 1980, ICJ Reports 1980, p 3 .....	58, 68, 118

### iii. International Criminal Tribunal for the former Yugoslavia

<i>Prosecutor v Tadić</i> , Appeal Judgment, 15 July 1999, no IT-94-1-A .....	64–5, 69, 73
---	--------------

### iv. European Commission of Human Rights

<i>Bendréus v Sweden</i> , no 31653/96 (8 September 1997) .....	36
<i>Chrystomos, Papachrysostomou and Loizidou v Turkey</i> , nos 15299/89, 15300/89, 15318/89 (8 July 1993) .....	33
<i>Cyprus v Turkey</i> , nos 6780/74, 6950/75 (26 May 1975) .....	17, 33
<i>Cyprus v Turkey</i> , no 8007/77 (10 July 1978) .....	33
<i>Freda v Italy</i> , no 8916/80 (7 October 1980) .....	36
<i>Hess v United Kingdom</i> , no 6231/73 (28 May 1975) .....	89–91, 292
<i>IH v Austria</i> , no 10533/83 (4 October 1989) .....	145
<i>Nordblad v Sweden</i> , no 19076/91 (13 October 1993) .....	145
<i>Peltonen v Finland</i> , no 19583/92 (20 February 1995) .....	146
<i>Ramirez v France</i> , no 28780/95 (24 June 1996) .....	36
<i>Rasheed Haje Tugar v Italy</i> , no 22869/93 (18 October 1995) .....	99
<i>Reinette v France</i> , no 14009/88 (2 October 1989) .....	36
<i>SS, AM and YSM v Austria</i> , no 19066/91 (5 April 1993) .....	252
<i>Stocké v Germany</i> (Report), no 11755/85 (12 October 1989) .....	27, 35–6, 66, 102
<i>Vearncombe v United Kingdom and Germany</i> , no 12816/87 (18 January 1989) .....	35, 84
<i>WM v Denmark</i> , no 17392/90 (12 October 1989) .....	36, 160
<i>X and Y v Switzerland</i> , nos 7289/75, 7349/76 (14 July 1977) .....	36, 83

<i>X v Federal Republic of Germany</i> , no 1611/62 (25 September 1965) .....	35
<i>X v United Kingdom</i> , no 7547/76 (15 December 1977) .....	35

## v. European Court of Human Rights

<i>Adali v Turkey</i> , no 38187/97 (31 March 2005) .....	34
<i>Akkoc v Turkey</i> , nos 22947/93, 22948/93 (10 October 2000) .....	139
<i>Aksu v Turkey</i> , nos 4149/04, 41029/04 (27 July 2010) .....	43
<i>Al-Nashif v Bulgaria</i> , no 50963/99 (20 June 2002) .....	153
<i>Al-Saadoon and Mufdhi v the United Kingdom</i> (dec), no 61498/08 (30 June 2009) .....	28, 40, 44, 121, 161, 280
<i>Al-Saadoon and Mufdhi v the United Kingdom</i> , no 61498/08 (2 March 2010) .....	140, 161–2
<i>Amuur v France</i> , no 19776/92 (10 June 1996) .....	196, 203, 251–2, 254, 279
<i>Andrejeva v Latvia</i> , no 55707/00 (18 February 2009) .....	161
<i>Andreou v Turkey</i> , no 45653/99 (3 June 2008) .....	34, 40–1
<i>Andreou Papi v Turkey</i> , no 16094/90 (26 September 2002) .....	34
<i>Ashingdane v United Kingdom</i> , no 8225/78 (28 May 1985) .....	252
<i>Assanidze v Georgia</i> , no 71503/01 (8 April 2004) .....	29
<i>Banković ao v Belgium ao</i> , no 52207/99 (12 December 2001) .....	19, 25–8, 30, 35–6, 38–45, 158–9, 288
<i>Bartik v Russia</i> , no 55565/00 (21 December 2006) .....	145–7, 153
<i>Baumann v France</i> , no 33592/96 (22 May 2001) .....	145–7
<i>Behrami and Behrami v France and Saramati v France, Germany and Norway</i> , nos 71412/01, 78166/01 (2 May 2007) .....	43, 161
<i>Ben El Mahi ao v Denmark</i> , no 5853/06 (11 December 2006) .....	16, 28, 35
<i>Berrehab v the Netherlands</i> , no 10730/84 (21 June 1988) .....	154
<i>Bosphorus v Ireland</i> , no 45036/98 (30 June 2005) .....	161
<i>CG ao v Bulgaria</i> , no 1365/07 (24 April 2008) .....	153, 248
<i>Carson ao v the United Kingdom</i> , no 42184/05 (4 November 2008) .....	42
<i>Chahal v United Kingdom</i> , no 22414/93 (15 November 1996) .....	276
<i>Cyprus v Turkey</i> , no 25781/94 (10 May 2001) .....	33, 71
<i>Djavit An v Turkey</i> , no 20652/92 (20 February 2003) .....	34
<i>Drozd and Janousek v France and Spain</i> , no 12747/87 (26 June 1992) .....	84
<i>Eugenia Michaelidou Developments Ltd ao v Turkey</i> , no 16163/90 (31 July 2003) .....	34
<i>Földes and Földesné Hajlik v Hungary</i> , no 41463/02 (31 October 2006) .....	145–6, 153, 155
<i>Galić v the Netherlands</i> , no 22617/07 (9 June 2009) .....	161
<i>Gentilhomme ao v France</i> , nos 48205/99, 48207/99, 48209/99 (14 May 2002) .....	44, 158
<i>Guzzardi v Italy</i> , no 7367/76 (6 November 1980) .....	250, 252
<i>HLR v France</i> , no 24573/94 (29 April 1997) .....	139

<i>HM v Switzerland</i> , no 39187/98 (26 February 2002) .....	252
<i>Haydarie ao v the Netherlands</i> , no 8876/04 (20 October 2005).....	41
<i>Ilaşcu ao v Moldova and Russia</i> , no 48787/99 (8 July 2004).....	28–30, 46, 71, 85
<i>Ireland v United Kingdom</i> , no 5310/71 (18 January 1978) .....	22
<i>Isaak v Turkey</i> (dec), no 44587/98 (28 September 2006).....	40
<i>Isaak v Turkey</i> , no 44587/98 (24 June 2008).....	34, 41, 46, 140
<i>Issa ao v Turkey</i> , no 31821/96 (16 November 2004) .....	27, 40–1
<i>Jabari v Turkey</i> , no 40035/98 (11 July 2000).....	12, 244
<i>Kelly ao v the United Kingdom</i> , no 30054/96 (4 May 2001).....	139
<i>Kovačič ao v Slovenia</i> , nos 44574/98, 45133/98, 48316/99 (9 October 2003).....	41
<i>Lavents v Latvia</i> , no 58442/00 (28 November 2002) .....	252
<i>LCB v the United Kingdom</i> , no 23413/94 (9 June 1998).....	139–40
<i>Loizidou v Turkey</i> (Preliminary Objections), no 15318/89 (23 March 1995) .....	26, 33–4, 70
<i>Loizidou v Turkey</i> , no 15318/89 (18 December 1996).....	33–4, 70
<i>Luordo v Italy</i> , no 32190/96 (17 July 2003).....	145, 147, 153
<i>Mahdid and Haddar v Austria</i> , no 74762/01 (8 December 2005).....	252
<i>Mahmut Kaya v Turkey</i> , no 22535/93 (28 March 2000).....	139
<i>Malone v the United Kingdom</i> , no 8691/79 (2 August 1984).....	153
<i>Manoilescu and Dobrescu v Romania and Russia</i> , no 60861/00 (3 March 2005) .....	47, 81
<i>Markovic v Italy</i> , no 1398/03 (14 December 2006).....	35
<i>Martin v the United Kingdom</i> , no 40426/98 (25 October 2006) .....	42
<i>Mastromatteo v Italy</i> , no 37703/97 (24 October 2002).....	140
<i>Mayeka and Mitunga v Belgium</i> , no 13178/03 (12 October 2006) .....	42, 276
<i>Medvedyev ao v France</i> , no 3394/03 (10 July 2008).....	40, 241, 247
<i>Medvedyev ao v France</i> [GC], no 3394/03 (29 March 2010).....	40, 44, 241, 247–8, 250, 252, 254
<i>Mikolenko v Estonia</i> , no 10664/05 (8 October 2009).....	276
<i>Minasyan and Semerjyan v Armenia</i> , no 27651/05 (23 June 2009) .....	41
<i>Muskhadzhiyeva ao v Belgium</i> , no 41442/07 (19 January 2010).....	276
<i>N v the United Kingdom</i> , no 26565/05 (27 May 2008).....	139
<i>Napijalo v Croatia</i> , no 66485/01 (13 November 2003) .....	145–7, 153
<i>Nolan and K v Russia</i> , no 2512/04 (12 February 2009) .....	132
<i>Öcalan v Turkey</i> , no 46221/99 (12 March 2003).....	40
<i>Öcalan v Turkey</i> [GC], no 46221/99 (12 May 2005).....	40
<i>Olsson v Sweden</i> (No 1), appl 10465/83 (24 March 1988).....	153
<i>Osman v the United Kingdom</i> , no 23452/94 (28 October 1998).....	139–40
<i>Pad ao v Turkey</i> , no 60167/00 (28 June 2007).....	41
<i>Rantsev v Cyprus and Russia</i> , no 25965/04 (7 January 2010).....	86
<i>Riener v Bulgaria</i> , appl 46343/99 (23 May 2006).....	145, 153, 155

<i>Rigopoulos v Spain</i> , no 37388/97 (12 January 1999).....	241
<i>Rodrigues da Silva and Hoogkamer v the Netherlands</i> , no 50435/99 (31 January 2006) .....	154
<i>Saadi v the United Kingdom</i> , no 13229/03 (29 January 2008) .....	275–6, 279
<i>Saddam Hussein v Albania ao</i> , no 23276/04 (14 March 2006) .....	89
<i>Soering v the United Kingdom</i> , no 14038/88 (7 July 1989) .....	139, 161
<i>Solomou ao v Turkey</i> , no 36832/97 (24 June 2008) .....	34, 40–1
<i>Stephens v Cyprus, Turkey and the UN</i> , no 45267/06 (11 December 2008) .....	47
<i>Stochlak v Poland</i> , no 38273/02 (22 September 2009) .....	42
<i>Streletz, Kessler and Krenz v Germany</i> , nos 34044/96, 35532/97, 44801/98 (22 March 2001) .....	145, 155
<i>Tarnopolskaya ao v Russia</i> , no 11093/07 (9 July 2009) .....	42
<i>Treska v Albania and Italy</i> , no 26937/04 (29 June 2006).....	47, 81, 91, 292
<i>Tuquabo-Tekle v the Netherlands</i> , no 60665/00 (1 December 2005) .....	41
<i>Weber and Saravia v Germany</i> , no 54934/00 (29 June 2006) .....	42
<i>Women on Waves v Portugal</i> , no 31276/05 (3 February 2009).....	242
<i>Xhavara ao v Italy and Albania</i> , no 39473/98 (11 January 2001) .....	41, 84, 140, 150, 212, 241
<i>Z ao v the United Kingdom</i> , no 29392/95 (10 May 2001).....	139–40
<i>Zouboulidis v Greece (No 2)</i> , no 36963/06 (25 June 2009) .....	41

## vi. Court of Justice of the European Communities/European Union

<i>A Ahlström Osakeyhtiö ao v Commission (Wood Pulp I)</i> , Joined Cases 89/85, 104/85, 114/85, 116/85, 117/85, 125/85 to 129/85 (27 September 1988) .....	190
<i>Commission v French Republic</i> , Case 167-73 (4 April 1974).....	191
<i>Commission v Ireland (Sea fisheries)</i> , Case 71/77 (16 February 1978) .....	191
<i>Ingrid Boukhalfa v Bundesrepublik Deutschland</i> , Case C-214/94 (30 April 1996).....	192
<i>Mário Lopes da Veiga v Staatssecretaris van Justitie</i> , Case 9/88 (27 September 1989) .....	192
<i>Parliament v Council</i> , Case C-540/03 (27 June 2006) .....	205
<i>RL Aldewereld v Staatssecretaris van Financiën</i> , Case C-60/93 (29 June 1994).....	192
<i>SARL Prodest v Caisse Primaire d'Assurance Maladie de Paris</i> , Case 237/83 (12 July 1987) .....	192
<i>Wachauf</i> , 5/88 (13 July 1989) .....	205

## **vii. Court of First Instance**

<i>Gencor v Commission</i> , Case T-102/96 (25 March 1999) .....	190
--	-----

## **viii. Human Rights Committee**

<i>A v Australia</i> , no 560/1993 (30 April 1997).....	272, 275–6, 279
<i>Ali Aqsar Bakhtiyari and Roqaiha Bakhtiyari v Australia</i> , no 1069/2002 (6 November 2003) .....	275
<i>C v Australia</i> , no 900/1999 (28 October 2002).....	276
<i>Celepli v Sweden</i> , no 465/91 (18 July 1994) .....	250
<i>Celiberti de Caseriego v Uruguay</i> , no 56/1979 (29 July 1981) .....	37, 86
<i>Francesco Madafferri and Anna Maria Immacolata Madafferri v Australia</i> , no 1011/2001 (26 August 2004) .....	275–6
<i>Ibrahima Gueye et al v France</i> , no 196/1983 (3 April 1989) .....	37–8
<i>Jalloh v the Netherlands</i> , no 794/1998 (26 March 2002).....	277
<i>Lichtensztejn v Uruguay</i> , no 77/1980 (31 March 1983) .....	37, 146–7, 149
<i>Lopez Burgos v Uruguay</i> , no 52/1979 (29 July 1981).....	25, 37, 86
<i>Loubna El Ghar v Libyan Arab Jamahiriya</i> , no 1107/2002 (15 November 2004) .....	37, 146–7
<i>Mohammed Alzery v Sweden</i> , no 1416/2005 (10 November 2006) .....	35, 85–6, 99
<i>Montero v Uruguay</i> , no 106/1981 (31 March 1983).....	37, 146–7
<i>Munaf v Romania</i> , no 1539/2006 (30 July 2009) .....	37–8, 121, 140
<i>Nunez v Uruguay</i> , no 108/1981 (22 July 1983) .....	37, 146–7, 149
<i>Omar Sharif Baban v Australia</i> , no 1014/2001 (18 September 2003) .....	272
<i>Peltonen v Finland</i> , no 492/1992 (29 July 1994) .....	146
<i>Vidal Martins v Uruguay</i> , no 57/1979 (23 March 1982).....	37, 146–7

## **ix. Committee against Torture**

<i>JHA v Spain (Marine I)</i> , no 323/2007 (21 November 2008) .....	7, 134, 241, 249, 253, 280
---	----------------------------

## **x. Inter-American Court of Human Rights**

<i>The Effect of Reservations on the Entry into Force of the American Convention on Human Rights (Arts 74 and 75)</i> , Advisory Opinion, OC-2/82, Series A No 2 (24 September 1982) .....	22
---	----



**xi. Inter-American Commission of Human Rights**

<i>Alejandro et al v Cuba</i> , Case 11.589, report no 86/99 (29 September 1999) .....	38
<i>Coard et al v the United States</i> , Case 10.951, report no 109/99 (29 September 1999) .....	30, 38, 51
<i>Disabled Peoples' International et al v the United States</i> , Case 9.213 (22 September 1987) .....	50
<i>Salas et al v United States</i> , Case 10.573, report no 31/93 (14 October 1993) .....	50
<i>The Haitian Centre for Human Rights et al v United States (Haitian Interdiction)</i> , Case 10.675, report no 51/96 (13 March 1997) .....	38, 51, 121
<i>Victor Saldano v Argentina</i> , report no 38/99 (11 March 1999) .....	38

**xii. International Tribunals**

General Claims Commission - United States and Mexico 2 April 1929, <i>Kate A Hoff, Administratrix of the Estate of Samuel B Allison, Deceased (USA) v United Mexican States</i> , 4 UNRIAA p 444 .....	233
Ad Hoc International Arbitral Tribunal 11 March 1941, <i>Trail smelter case (United States v Canada)</i> , 3 UNRIAA p 1905 .....	15-16
Iran-United States Claims Tribunal 2 November 1987, <i>Kenneth P Yeager v The Islamic Republic of Iran</i> , Partial Award No 324-10199-1, reprinted in 17 Iran-United States Claims Tribunal Reports p 92 .....	73
Permanent Court of Arbitration 30 January 2007, <i>The Channel Tunnel Group Ltd and France-Manche SA v United Kingdom and France (Eurotunnel)</i> , Partial Award .....	88

**xiii. National Courts***Australia*

Federal Court of Australia 11 September 2001, <i>Victorian Council for Civil Liberties Incorporated v Minister for Immigration &amp; Multicultural Affairs</i> , [2001] FCA 1297 .....	251
Federal Court of Australia 18 September 2001, <i>Ruddock v Vadarlis</i> , [2001] FCA 1329 .....	251
High Court of Australia 31 August 2005, <i>Ruhani v Director of Police [No 2]</i> , [2005] HCA 43 .....	280