

Security Council Targeted Sanctions and Human Rights

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The course will focus on human rights protection of individuals whose names are included in UN lists of targeted sanctions. It will develop around the following three set of questions:

1. What kind of protection, if any, does the UN system offer to individuals targeted by UN sanctions? Are remedies *ex ante* or *ex post*; judicial, quasi-judicial or political? Does protection afforded to the affected individual by the State of nationality (or residence) qualify as exercise of diplomatic protection?
2. Is the lack of judicial guarantees at the universal level (where sanctions are imposed) effectively remedied, in whole or in part, at the regional and/or at the national level (where sanctions are implemented)? If so, is protection effective and not less favourable than that afforded when individual rights are similarly affected outside the scope of UN sanctions regimes? Are there objective grounds justifying a less favourable treatment?
3. Are international monitoring bodies such as the UN Committee of Human Rights and the European Court of Human Rights up to the task of protecting the rights of targeted individuals, when other international as well as national systems have failed to do so? And the ICC? Which judicial policy considerations caution against allowing full judicial review in situations where human rights are affected in the implementation of a UN resolution?

Lecture 1: United Nations

SC Resolution 1730 (2006) adopted on 19 December 2006

SC Resolution 1822 (2008) adopted on 30 June 2008

SC Committee Established Pursuant to Resolution 1267 (1999) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities, Guidelines of the Committee for the Conduct of its Work (adopted on 7 November 2002, as amended on 10 April 2003, 21 December 2005, 29 November 2006, 12 February 2007, and 9 December 2008)

Id. Narrative Summaries of Reasons for Listing: Nada, Sayadi and Vinck

ILC Draft Articles on Diplomatic Protection adopted in 2006

ILC Commentaries on the Draft Articles on Diplomatic Protection, Articles 1-2 and 18.

ILC Draft Articles on Responsibility of States for Internationally Wrongful Acts adopted in 2006, Articles 1-3

ILC Draft Articles on Responsibility of International Organizations provisionally adopted in 2008, Art. 15 with commentary thereto

Lecture 2: European Union and National States

ECJ, Judgment of 30 July 1996, *Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ministry for Transport, Energy and Communications and others*

ECJ (Grand Chamber), Judgment of 3 September 2008, *Yassin Abdullah Kadi and Al Barakaat International Foundation v. Council of the European Union and Commission of the European Communities* (Joined Cases C-402/05P and C-415/05P)

Commission Regulation (EC) No. 1190/2008 of 28 November 2008

CFI (Seventh Chamber), Judgment of 4 December 2008, *People's Mojahedines Organisation of Iran v. Council of the European Union* (Case T-284/08)

Lecture 3: UN Committee of Human Rights and ECHR

SC Resolution 1636 (2005) adopted on 31 October 2005

SC Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, List of Individuals and Entities Subject to the Measures Imposed by Paragraphs 13 and 15 of Security Council Resolution 1596 (2005)

ICC, PTC-I, Request to States Parties to the Rome Statute for the Identification, Tracing and Freezing or Seizure of the Property and Assets of Mr. Thomas Lubanga Dyilo of 31 March 2006, *The Prosecutor v. Thomas Lubanga Dyilo* (ICC-01/04-01/06)

Human Rights Committee, Views under art. 5, para. 4, of the Optional Protocol of 22 October 2008, *Nabil Sayadi and Patricia Vinck v. Belgium* (Communication No. 1472/2006) ([http://www.statewatch.org/terrorlists/docs/Vinck%20-%20Sayadi%20\(English\).pdf](http://www.statewatch.org/terrorlists/docs/Vinck%20-%20Sayadi%20(English).pdf))

ECHR (Grand Chamber), Judgment of 30 June 2005, *Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland* (On application no. 45036/98)

ECHR (Grand Chamber), Decision of 2 May 2007, *Behrami and Behrami v. France and Saramati v. France, Germany and Norway* (On applications no. 71412/01 and 78166/01)

Electronic Bibliography

Simon Chesterman, 'I'll Take Manhattan': *The International Rule of Law and the United Nations Security Council*, 1 *Hague Journal on the Rule of Law*, 2009, 67-73 at <http://journals.cambridge.org/action/displayJournal?jid=ROL>

United Nations Security Council Sanctions Committees at <http://www.un.org/sc/committees>

Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities, *Annual Report concerning the periods from 1 January to 31 December 2008* (S/2008/848) at <http://daccess-ods.un.org/TMP/2389456.html>.

<http://www.youssefnada.ch/>

Dick Marty, *UN Security Council and EU Blacklisting. Report commissioned by the Parliamentary Assembly of the Council of Europe*, 16 November 2007, at <http://assembly.coe.int/main.asp?Link=/documents/workingdocs/doc07/edoc11454.htm>

Michael Bothe, *Security Council's Targeted Sanctions against Presumed Terrorists: The Need to Comply with Human Rights Standards*, 6 *Journal International Criminal Justice*, 2008, 541-555 (doi:10.1093/jicj/mqn040) <http://jicj.oxfordjournals.org/cgi/reprint/6/3/541>

Johannes Reich, *Due Process and Sanctions Targeted Against Individuals Pursuant to Resolution 1267 (1999). With an Added Note on European Court of Justice, Judgment in Joined Cases C-402/05 P and C-415/05 P, Yassin Abdullah Kadi and Al Barakaat International Foundation v. Council and Commission, September 3, 2008*, 33 *Yale Journal of International Law*, 2008 at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1268163

Grainne de Burca, *The European Court of Justice and the International Legal Order after Kadi*, Jean Monnet Working Paper No. 1/09, at <http://www.jeanmonnetprogram.org/papers/09/090101.html>

Daniel Halberstam and Eric Stein, *The United Nations, the European Union, and the King of Sweden: Economic Sanctions and Individual Rights in a Plural World Order*, Jean Monnet Working Paper No. 2/09, at <http://www.jeanmonnetprogram.org/papers/09/090201.html>

General Background

"Individual Remedies Against Security Council Targeted Sanctions", *Italian Yearbook of Int. Law*, 2008, 55-77

A. Ciampi, "L'Union européenne et le respect des droits de l'homme dans la mise en œuvre des sanctions devant la Cour européenne des droits de l'homme", *Revue générale de droit international public*, 2006, 85-116