

November 2005

**IRELAND**

(a)	<b>Registration no:</b>	IRL/1
(b)	<b>Date:</b>	12 March 1992
(c)	<b>Authority:</b>	Supreme Court
(d)	<b>Parties:</b>	The Government of Canada (Applicant) v. The Employment Appeals Tribunal (Respondent) and Brian Burke (Notice Party)
(e)	<b>Points of law:</b>	The Court establishes that restrictive sovereign immunity applies to proceedings before a Court or administrative tribunal and is applicable to this case concerning employment within an embassy because it comes within the sphere of governmental or sovereign activity.
(f)	<b>Classification no:</b>	O.a, 1.b, 2.c
(g)	<b>Source:</b>	Irish Reports, 1992, Vol. 2, pp484-502
(h)	<b>Additional Information:</b>	Reversed the High Court decision of 14 March, 1991 and quashed the determination of the Employment Appeals Tribunal. Article 29.3 of the Irish Constitution is relevant
(i)	<b>Full text:</b>	Full text: Appendix *

(a)	<b>Registration no:</b>	IRL/2
(b)	<b>Date:</b>	7 July 1994
(c)	<b>Authority:</b>	Supreme Court
(d)	<b>Parties:</b>	Angelo Fusco (Plaintiff) v. Edward O'Dea (Defendant)
(e)	<b>Points of law:</b>	The Court establishes that sovereign immunity precludes making an order for discovery against a sovereign state
(f)	<b>Classification no:</b>	O.a, 1.a, 2.c
(g)	<b>Source:</b>	Irish Reports, 1994, Vol. 2, pp93-104
(h)	<b>Additional Information:</b>	High Court decision of 21 April, 1993 upheld
(i)	<b>Full text:</b>	Full text: Appendix *

(a)	<b>Registration no:</b>	IRL/3
(b)	<b>Date:</b>	15 December 1995
(c)	<b>Authority:</b>	Supreme Court
(d)	<b>Parties:</b>	John McElhinney (Plaintiff) v. Anthony Ivor John Williams and Her Majesty's Secretary of State for Northern Ireland (Defendants)
(e)	<b>Points of law:</b>	The Court establishes that sovereign immunity applies because the tortious acts of a soldier who is a foreign State's servant or agent are "jus imperii"
(f)	<b>Classification no:</b>	O.a, 1.a, 2.c
(g)	<b>Source:</b>	Irish Reports, 1995, Vol. 3, pp382-405
(h)	<b>Additional Information:</b>	High Court decision of 15 April, 1994 upheld. In "McElhinney v. Ireland", 21 November 2001, the European Court of Human Rights finds no violation of the Convention
(i)	<b>Full text:</b>	Full text: Appendix *

<b>(a)</b>	<b>Registration no:</b>	IRL/4
<b>(b)</b>	<b>Date:</b>	24 April 1997
<b>(c)</b>	<b>Authority:</b>	Supreme Court
<b>(d)</b>	<b>Parties:</b>	Norburt Schmidt (Plaintiff) v. Home Secretary of the Government of the United Kingdom et al. (Defendants)
<b>(e)</b>	<b>Points of law:</b>	The Court establishes that the Commissioner and an individual agent of the Metropolitan Police (United Kingdom) are also entitled to rely on sovereign immunity
<b>(f)</b>	<b>Classification:</b>	O.a, 1.a, 2.c
<b>(g)</b>	<b>Source:</b>	Irish Reports, 1997, Vol. 2, p121
<b>(h)</b>	<b>Additional Information:</b>	High Court decision of 22 November 1994 upheld
<b>(i)</b>	<b>Full text:</b>	Full text: Appendix *

The first traces of restrictive sovereign immunity in Irish law appear to emanate from Hanna J. in Zarine v. Owners of S.S. "Ramava" [1942] I.R.148

Other case law on State immunity:

Saorstát and Continental Steamship Co. v. De las Morenas [1945] I.R. 291

More generally, see case law on Article 29.3 of the Irish Constitution and the incorporation of international law, particularly customary international law.

ACT Shipping (Pte) Ltd. v. Minister for the Marine [1995]3 I.R. 406

State (Sumers Jennings) v. Furlong [1966] I.R. 183

The Marshal Gelovani [1995] 1 I.R. 159

