

November 2005

NORWAY

(a)	<b>Registration no.</b>	N/1
(b)	<b>Date</b>	18 February 1992
(c)	<b>Author(ity)</b>	Eidsivating Court of Appeal, ( Eidsivating Lagmannsrett), a judgement
(d)	<b>Parties</b>	Brødrene Smith Entreprenørforretning (company) vs. den Sør-Afrikanske stat (The South African State – State)
(e)	<b>Points of law</b>	The Court established that a suit brought against a State in the latter's capacity as a party to a contract governed by private law, would normally fall outside the scope of state immunity. The Court therefore referred the case back to Oslo City Court for further deliberations. The court stated explicitly that the fact that the construction work were supposed to be carried out on a building used for consular purposes and enjoying inviolability had no bearing on the competence of the court to entertain such a matter.
(f)	<b>Classification no.</b>	0.b.1, 1.b, 2.c
(g)	<b>Source(s)</b>	Extracts published in Nordic Journal of International Law, No 70, 2001, page 531-566.
(h)	<b>Additional information</b>	Previous case was ruled by Oslo City Court the 25 October 1990. The Oslo City Court came in its first ruling, to the opposite conclusion.
(i)	<b>Full text – extracts – translation - summaries</b>	

<b>(a)</b>	<b>Registration no.</b>	N/2
<b>(b)</b>	<b>Date</b>	17 January 2001
<b>(c)</b>	<b>Author(ity)</b>	Borgarting Court of Appeal (Borgarting Lagmannsrett), a judgement
<b>(d)</b>	<b>Parties</b>	Constructor Norge AS (company) vs. Amerikas Forente Stater (USA)
<b>(e)</b>	<b>Points of law</b>	The Court concluded that Norwegian Courts had the competence necessary to deal with a claim for compensation brought against the United States of America before Oslo City Court by a private party. The Court considered whether immunity could be denied also in cases which clearly fall within the scope of acta iure gestionis. The Court of Appeal concluded that customary international law does not restrict the competence of national courts only to those cases falling within the specific exemptions from immunity listed in the European Convention on State Immunity of 16 May 1972 and the draft UN Convention on Jurisdictional Immunities for States and their Property prepared by the International Law Commission. Immunity was thus denied and the case referred back to Oslo City Court for further deliberations. The Court had found that the restrictive immunity goes beyond what is envisaged in the European Convention and the Draft UN Convention.
<b>(f)</b>	<b>Classification no.</b>	0.b.1, 1.b, 2.c
<b>(g)</b>	<b>Source(s)</b>	Extracts published in Nordic Journal of International Law, No 70, 2001, page 531-566.
<b>(h)</b>	<b>Additional information</b>	The case was previously ruled by Oslo City Court on the 9 August 2000. The Oslo City Court came to the opposite conclusion.  In the Court of Appeal's Judgement both the European Convention on State Immunity of 16 May 1972 and the Draft UN Convention on Jurisdictional Immunities for States and their Property prepared by the International Law Commission, are mentioned.
<b>(i)</b>	<b>Full text – extracts – translation - summaries</b>	

<b>(a)</b>	<b>Registration no.</b>	N/3
<b>(b)</b>	<b>Date</b>	15 October 1998
<b>(c)</b>	<b>Author(ity)</b>	Borgarting Court of Appeal (Borgarting Lagmannsrett), a judgement
<b>(d)</b>	<b>Parties</b>	Scancem International ANS (Private company) vs. Antione Yazbeck, Rabyeh, Libanon, Walid Yazbeck, Rabyeh, Libanon, Henri Jabre, Paris, France, Christian Jabre, London, England (private persons)
<b>(e)</b>	<b>Points of law</b>	The issue at stake was whether a private company registered in Norway was liable for damages suffered by a third party as a result of an expropriation carried out by the authorities of Sierra Leone. The claimants owned shares in a cement factory, which was nationalised by the Government in Sierra Leone and later sold to the Norwegian Company. In order to settle the claim, the court had to take a prejudicial stand with regard to the legality of the expropriation made by a foreign state. The Court emphasised that the legal position of the foreign state would not be affected by its decision. On this basis it found that State immunity could not prevent it from making a prejudicial assessment of the legality of an act of that state in order to determine a claim for compensation between to private parties.
<b>(f)</b>	<b>Classification no.</b>	0.b.3, 1.b, 2.c
<b>(g)</b>	<b>Source(s)</b>	Extracts published in Nordic Journal of International Law, No 70, 2001, page 531-566. Published in full text in the Norwegian law review "Rettsens Gang" 1999, page 793
<b>(h)</b>	<b>Additional information</b>	This case was previously ruled by Oslo City Court on the 5 May 1998. The Court of Appeal reached the same conclusion as the City Court.
<b>(i)</b>	<b>Full text – extracts – translation - summaries</b>	



<b>(a)</b>	<b>Registration no.</b>	N/4
<b>(b)</b>	<b>Date</b>	29 May 1989
<b>(c)</b>	<b>Author(ity)</b>	Eidsivating Court of Appeal (Eidsivating Lagmannsrett), a judgement
<b>(d)</b>	<b>Parties</b>	A (Private Person) vs. United States of America by Department of Justice
<b>(e)</b>	<b>Points of law</b>	The Court confirms that a state is not granted immunity for acts regulated by private law or acts that have any form of commercial character. The question was whether this particular business was of this character.
<b>(f)</b>	<b>Classification no.</b>	0.b.2, 1.b, 2.c
<b>(g)</b>	<b>Source(s)</b>	
<b>(h)</b>	<b>Additional information</b>	The judgement confirmed the Asker and Bærum county court`s decision of 20 January 1989
<b>(i)</b>	<b>Full text – extracts – translation – summaries</b>	

<b>(a)</b>	<b>Registration no.</b>	N/5
<b>(b)</b>	<b>Date</b>	24.09.1999
<b>(c)</b>	<b>Author(ity)</b>	The Norwegian Royal Ministry of Foreign Affairs, a letter
<b>(d)</b>	<b>Parties</b>	The Norwegian Ministry of Foreign Affairs – Embassy of Ukraine
<b>(e)</b>	<b>Points of law</b>	<p>The Norwegian Ministry of Foreign Affairs answers questions concerning Norwegian practice on State Immunity. It states that Norway has not adopted any general law regarding immunity of foreign states in particular. However, the Norwegian domestic law is considered to be in conformity with the rules of public international law. The Norwegian administration and the Norwegian courts will thus apply the rules of public international law, in addition to relevant provisions of applicable international conventions to which Norway is a party.</p> <p>It also states that Norwegian authorities acknowledge the distinction between the acts of a state in its sovereign capacity (acta jure imperii) and those of a private law or commercial character (acta jure gestionis), immunity not being granted for the latter. Furthermore the letter states that Norway is not bound by any international conventions or agreements specifically regulating state immunity.</p>
<b>(f)</b>	<b>Classification no.</b>	0.a and 0.b, 1.b, 2.c
<b>(g)</b>	<b>Source(s)</b>	
<b>(h)</b>	<b>Additional information</b>	The letter refers to the decision made by Eidsivating Court of Appeal (Eidsivating Lagmannsrett) on 18 February 1992.
<b>(i)</b>	<b>Full text – extracts – translation - summaries</b>	

<b>(a)</b>	<b>Registration no.</b>	N/6
<b>(b)</b>	<b>Date</b>	10.12.1998
<b>(c)</b>	<b>Author(ity)</b>	The Norwegian Ministry of Foreign Affairs, a letter
<b>(d)</b>	<b>Parties</b>	The Norwegian Ministry of Foreign Affairs - The Norwegian Veritas (Det norske Veritas)
<b>(e)</b>	<b>Points of law</b>	The Norwegian Ministry of Foreign Affairs states that it acknowledges the distinction between the acts of a state in its sovereign capacity (acta jure imperii) and those of a private law or commercial character (acta jure gestionis), immunity not being granted for the latter.
<b>(f)</b>	<b>Classification no.</b>	0.a and 0.b, 1.b, 2.c
<b>(g)</b>	<b>Source(s)</b>	
<b>(h)</b>	<b>Additional information /</b>	The letter refers to the Vienna Convention on diplomatic relations of 18 April 1961 and Eidsivating Court of Appeals (Eidsivating Lagmannsrett) judgement of 18 February 1992
<b>(i)</b>	<b>Full text – extracts – translation - summaries</b>	

<b>(a)</b>	<b>Registration no.</b>	N/7
<b>(b)</b>	<b>Date</b>	3 March 2002
<b>(c)</b>	<b>Author(ity)</b>	The Norwegian Ministry of Foreign Affairs, a verbal note
<b>(d)</b>	<b>Parties</b>	The Norwegian Ministry of Foreign Affairs - the Embassy of the United States of America
<b>(e)</b>	<b>Points of law</b>	The Norwegian Ministry of Foreign Affairs expresses that it does not consider that customary international law, pertaining the procedures to be followed when bringing a case against a foreign state in national courts, provides for an obligation to effect service through diplomatic channels, nor that a notice of 60 days is compulsory in such cases.
<b>(f)</b>	<b>Classification no.</b>	0.c, 1.c, 2.c
<b>(g)</b>	<b>Source(s)</b>	
<b>(h)</b>	<b>Additional information</b>	
<b>(i)</b>	<b>Full text – extracts – translation - summaries</b>	



