

November 2005

GREECE

(a)	Registration no	GR/1
(b)	Date	2002
(c)	Author(ity)	Special Supreme Court
(d)	Parties	Judgment 6/2002 X. v. Federal Republic of Germany
(e)	Points of Law	The Special Supreme Court held that there is no rule of customary international law providing that a State may be brought before the Tribunals of another State for civil liability arising out of crimes committed either in wartime or in peacetime by its armed forces.
(f)	Classification no	
(g)	Source	Archeion Nomologias (Archive of Case-Law in Greek) 2003, p. 40.
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	The Court held that at the present stage of development of international law, there still applies a generally accepted rule of that law pursuant to which a State cannot be validly brought in civil proceedings before the Courts of another State for compensation resulting from any kind of tort which took place on the territory of the forum, if in such tort were involved the military forces of the defendant State, either in time of peace or in time of war.”

(a)	Registration no	GR/2
(b)	Date	2002
(c)	Author(ity)	Supreme Court (Areios Pagos) Plenary
(d)	Parties	Judgment 37/2002
(e)	Points of Law	The Plenary of the Supreme Court held that the requirement for prior consent of the Minister of Justice (as provided in article 923 of the Code of Civil Procedure) is not contrary to article 6 par. 1 of the European Convention on Human Rights (ECHR) and article 2 par. 3 as well as 14 of the International Covenant on Civil and Political Rights (ICCPR).
(f)	Classification no	
(g)	Source	
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	<p>The Plenary of the Supreme Court held that the prior consent of the Minister of Justice (article 923 of the Code of Civil Procedure), which is necessary to initiate enforcement proceedings against a foreign State, is not contrary to article 6 par. 1 of the ECHR and articles 2 par. 3 as well as 14 of the ICCPR. It consequently decided that the right to effective remedies in case of enforcement proceedings may, under certain conditions, be subject to restrictions. Such restrictions should be provided for by law and should not violate the substance of the protected right or be disproportionate to the aim pursued and the means employed.</p> <p>The Supreme Court held that the refusal of the Minister of Justice to consent to enforcement proceedings against a foreign State is not contrary to the aforementioned rules of the ECHR and the ICCPR if such enforcement proceedings are directed against the property of a foreign State serving "<i>jure imperii</i>" purposes or if these proceedings may endanger the international relations of the country with foreign States ...</p>

(a)	Registration no	GR/3
(b)	Date	2002
(c)	Author(ity)	Supreme Court (Areios Pagos) Chamber
(d)	Parties	Judgment 302/2002 Prefecture of Boeteia v. The Fed. Rep. of Germany
(e)	Points of Law	The Chamber of the Supreme Court having doubts as to whether prior consent of the Minister of Justice is necessary to initiate enforcement proceedings against a foreign State, decided to refer the case to the Plenary of the Supreme Court (Areios Pagos).
(f)	Classification no	2, 2.b, 2.c
(g)	Source	
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	As stated above, the Chamber of the Supreme Court had doubts as to whether prior consent of the Minister of Justice, which is necessary according to article 923 of the Greek Code of Civil Procedure to start enforcement proceedings against a foreign state, is contrary to article 6 par. 1 of the European Convention on Human Rights and articles 2 par. 3 as well as 14 of the International Covenant on Civil and Political Rights. It therefore decided to refer the case to the Plenary of the Supreme Court (Areios Pagos).

(a)	Registration no	GR/4
(b)	Date	2001
(c)	Author(ity)	Supreme Court (Areios Pagos) Chamber
(d)	Parties	Judgment 131/2001
(e)	Points of Law	The Chamber of the Supreme Court having doubts as to whether a foreign State enjoys State immunity for acts performed <i>jure imperii</i> which violate the laws of war on land, decided to refer the question to the Supreme Special Court.
(f)	Classification no	0.a, 0.c, 1c
(g)	Source	Nomiko Vima 2001 p. 1166
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	As stated above, the Chamber of the Supreme Court, had doubts as to the recognition or non recognition of State immunity with regard to claims arising out of violations of the laws of war on land by the nazi forces in occupied Greece. It therefore decided to refer the case to the Supreme Special Court which is provided for in article 100 of the Greek Constitution. Such Court will decide on whether a rule as to the abovementioned question exist and has reached the status of international customary law.

(a)	Registration no	GR/5
(b)	Date	2000
(c)	Author(ity)	Supreme Court (Areios Pagos) Plenary
(d)	Parties	Judgment 11/2000 Prefecture of Boeteia v. The Fed. Rep. of Germany
(e)	Points of Law	In cases of grave violations of the laws of war on land, and generally of rules recognized as having a <i>jus cogens</i> character, foreign States are not entitled to State Immunity
(f)	Classification no	0.a, 0.c, 1c
(g)	Source	Dike (Trial) Greek Journal of Civil Procedure 2000, p. 696
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	There is a general practice of States which has reached the status of international custom -thus constituting in accordance with article 28 par. 1 of the Greek Constitution an integral part of the Greek domestic law with increased force of validity- according to which domestic Courts have jurisdiction, in derogation of the principle of State immunity, to hear claims of compensation arising out of grave breaches of the laws of war. This derogation from the sovereign immunity rule refers to damages arising out of torts inflicted upon a specific number of persons of the civilian population by way of abuse of force by members of the occupying Force.

(a)	Registration no	GR/6
(b)	Date	1993
(c)	Author(ity)	Athens Court of Appeals
(d)	Parties	Judgment 5288/1993, X. (Professor of the Italian language) v. (Casa d' Italia) The Italian Republic
(e)	Points of Law	In disputes arising out of labour contracts foreign States are not entitled to sovereign immunity.
(f)	Classification no	0b, 0.b2, 1.b
(g)	Source	Epitheorisi Emborikou Dikaiou (in Greek Journal of Commercial Law) vol. 53 (1994) p. 763
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	Foreign States do not enjoy sovereign immunity for acts performed <i>jure gestionis</i> . Conversely, they enjoy immunity for acts performed <i>jure imperii</i> . Since there is no international norm establishing international jurisdiction of domestic courts on this matter, every State establishes its international jurisdiction in accordance with its domestic law. Consequently, the criteria for determining which acts are considered as <i>jure gestionis</i> or <i>jure imperii</i> are set out in the domestic legislation. Labour contracts in which a foreign State is a Party, do not fall in the ambit of governmental authority of the State (except for contracts in matters of civil service). Therefore in such cases foreign States are not entitled to sovereign immunity.

(a)	Registration no	GR/7
(b)	Date	1992
(c)	Author(ity)	Athens Court of Appeals
(d)	Parties	Judgment 1822/1992 I.G. v. The United States
(e)	Points of Law	In cases of labour contracts in which a foreign State is a contracting party and stands on an equal footing with private persons, the State cannot raise the plea of sovereign immunity.
(f)	Classification no	0b, 0.b2, 1.b
(g)	Source	Dike (Trial) vol. 23 (1992) p. 897
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	In accordance with article 3 par. 1 of the Greek Code of Civil Procedure foreign nationals are under the jurisdiction of Greek Courts unless they are entitled to immunity from jurisdiction. Foreign States are not immune from judicial proceeding for acts they perform as <i>fiscus</i> . In cases of labour contracts in which a foreign State is a contracting party and stands on an equal footing with private persons, the State cannot raise the plea of sovereign immunity Accordingly that State is not immune from lawsuits arising out of these contracts.

(a)	Registration no	GR/8
(b)	Date	1992
(c)	Author(ity)	Athens Court of First Instance
(d)	Parties	Judgment 600/1992 X. (Professor of the Italian language) v. (Casa d' Italia) The Italian Republic.
(e)	Points of Law	A foreign State is entitled to sovereign immunity in case of disputes arising out of labour contracts concluded in order to fulfil the functional needs of that State.
(f)	Classification no	0.a, 1.a
(g)	Source	Epitheorissi Ergatikou Dikaiou (in greek) Journal of Labour Law 1994 p. 806
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	Foreign States are entitled to immunity from jurisdiction of domestic Courts in disputes arising out of acts performed <i>jure imperii</i> . Disputes related to the performance of labour contracts which have been concluded between a foreign State and a private person in order to fulfil functional needs of the State, are not subject to the jurisdiction of domestic Courts. The Court found that Case d'Italia where the applicant was employed is part of the Italian embassy in Athens and, as such fulfils functional needs of the defendant State.

(a)	Registration no	GR/9
(b)	Date	1991
(c)	Author(ity)	Court of Appeals of Crete
(d)	Parties	Judgment 491/1991 X v. Mediterranean Institute for Agriculture
(e)	Points of Law	Greek Courts are entitled to adjudicate on disputes between private persons and international organizations arising out of labour contracts.
(f)	Classification no	0.b, 0.b.2, 1.b
(g)	Source	"Armenopoulos" (in greek) 1993 p. 931
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	In cases of labour contracts between a private person and an international organisation, Greek Courts are entitled to adjudicate on disputes arising out of acts in which the international organisation acted as <i>fiscus</i> and not as <i>imperium</i> . Consequently, Greek Courts have jurisdiction to judge on lawsuits arising out of these contracts against the organisation

(a)	Registration no	GR/10
(b)	Date	1991
(c)	Author(ity)	Court of Appeals of Crete
(d)	Parties	Judgment 479/1991 X v. Mediterranean Institute for Agriculture
(e)	Points of Law	International Organisations are not entitled to immunity from jurisdiction of domestic Courts for acts they have performed as <i>fiscus</i> . Under the contrary hypothesis there could be no jurisdiction with regard to the greatest part of private law cases involving the organisation.
(f)	Classification no	0.b, 0.b.2, 1.b
(g)	Source	Epitheorissi Ergatikou Dikaiou (in greek) Journal of Labour Law 1992 p. 503
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	As stated above, international organisations are not entitled to immunity from jurisdiction of domestic Courts for acts they have performed as <i>fiscus</i> . Otherwise, there could be no jurisdiction on the greatest part of private law cases involving an international organisation. This is because the latter would enjoy immunity from jurisdiction in all its Member States, it does not possess any territory of its own and, only incidentally could a lawsuit be brought against it in a third country according to the rules on jurisdiction applying in each state.

(a)	Registration no	GR/11
(b)	Date	1990
(c)	Author(ity)	Athens Court of Appeals
(d)	Parties	Judgment 12845/1990
(e)	Points of Law	Greek Courts are not entitled to adjudicate on disputes arising out of acts performed <i>jure imperii</i> . Greek Courts have jurisdiction for acts performed <i>jure gestionis</i> .
(f)	Classification no	0.b, 0.b.3, 1.b
(g)	Source	Elliniki Dikaiosyni (in greek) 1992 p. 882.
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	Foreign States do not enjoy sovereign immunity for acts performed <i>jure gestionis</i> . Conversely, they enjoy immunity for acts performed <i>jure imperii</i> . Disputes arising out of acts in which a person entitled to sovereign immunity appears as a private person exercising commercial, industrial, financial or other lucrative activities are private law disputes. Consequently, those disputes fall in the ambit of jurisdiction of domestic Courts.

(a)	Registration no	GR/12
(b)	Date	1988
(c)	Author(ity)	Athens Court of Appeals
(d)	Parties	Judgment 13043/1988
(e)	Points of Law	Foreign States are entitled to sovereign immunity for acts performed <i>jure imperii</i> . In matters of labour law, foreign States are not acting in their sovereign capacity. They appear on an equal basis with the private person employed.
(f)	Classification no	0.b,1.b
(g)	Source	Dike (Trial) 1990 p. 288
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	Foreign States are entitled to sovereign immunity for acts performed <i>jure imperii</i> , i.e. acts performed under their governmental authority. On the contrary where a State is acting as a <i>fiscus</i> and private law rules are applicable, the State in question is not entitled to immunity. In matters of labour law, foreign States are not acting in their sovereign capacity when contracting labour law contracts. Indeed, they appear on an equal basis with the private person employed.

(a)	Registration no	GR/13
(b)	Date	1988
(c)	Author(ity)	Athens Court of Appeals
(d)	Parties	Judgment 175/1988 X. v. Iraqi Airways
(e)	Points of Law	Although an instrumentality of a foreign State does not possess legal personality according to its national law, such instrumentality is considered to have <i>locus standi</i> before Greek Courts, if it has developed activities of its own.
(f)	Classification no	0.b, 0.b.3, 1.b
(g)	Source	Dike (Trial) 1989 p. 264
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	Although an instrumentality of a foreign State does not possess legal personality according to its national law, an instrumentality of a foreign State is considered to have its own distinct legal capacity when such instrumentality has developed activities of its own. In the latter case even if such instrumentality is not distinct from the foreign State, it has its own <i>locus standi</i> before the Greek courts.

(a)	Registration no	GR/14
(b)	Date	1986
(c)	Author(ity)	Supreme Court (Areios Pagos) Chamber
(d)	Parties	1398/1986 X v. Japan
(e)	Points of Law	According to international law, foreign States are entitled to immunity from jurisdiction for acts performed <i>jure imperii</i> , i.e. disputes arising out of acts which have no relation with private law disputes.
(f)	Classification no	0.b,0.b2, 1.b
(g)	Source	Elliniki Dikaioyni 1987 p. 1029
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	According to international law foreign States are entitled to immunity from jurisdiction for acts performed <i>jure imperii</i> . This is the case for disputes arising out of acts performed under the governmental authority of that State which have no relation to private law disputes, i.e. disputes arising out of acts where the state appears as <i>fiscus</i> . The question whether, in a particular case, an act is coming under the governmental authority of the State, or refers to private law relations, is a matter to be decided by the Greek Courts in accordance with relevant domestic law provisions.

(a)	Registration no	GR/15
(b)	Date	1982
(c)	Author(ity)	Court of First Instance of the Island of Kos
(d)	Parties	Judgment 275/1982
(e)	Points of Law	The request for interim measures against a foreign State is not admissible if there is no previous decision of the Minister of Justice consenting to the request.
(f)	Classification no	0.b, 2c
(g)	Source	Epitheorissi Navtikou Dikaiou (Journal of Maritime Law)
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	Article 689 of the Code of Civil Procedure provides that the request for interim measures against a foreign State is not admissible if there is no previous decision of the Minister of Justice consenting to the request. Prior consent is necessary when the request is filed against the foreign State itself and, consequently, it is not necessary when the request is filed against a foreign legal or natural person, organisation or union, irrespective of the closeness of legal ties with the foreign State.

(a)	Registration no	GR/16
(b)	Date	1981
(c)	Author(ity)	Court of First Instance of Thessaloniki
(d)	Parties	Judgment 1822/1981
(e)	Points of Law	According to article 689 of the Code of Civil Procedure a request for interim measures against a foreign state is admissible if the Minister of Justice has already given his/her consent.
(f)	Classification no	0.b, 2c
(g)	Source	Epitheorissi Emborikou Dikaiou (Journal of Commercial Law) 1981 p. 419
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	A request for interim measures against a foreign state-owned ship is admissible (in accordance with article 689 of the Code of Civil Procedure) if the Minister of Justice has already given his/her consent to that effect.

(a)	Registration no	GR/17
(b)	Date	1981
(c)	Author(ity)	Court of First Instance of Thessaloniki
(d)	Parties	Judgment 519/1981 X v. Japan
(e)	Points of Law	Foreign States are not entitled to sovereign immunity where it appears that they transacted as equals with a private person.
(f)	Classification no	0b, 0b.4, 1.b
(g)	Source	Elliniki Dikaiosyni 1983 p. 704
(h)	Additional Information	
(i)	Full text - extracts - translation - summaries	According to customary law, a foreign State is entitled to sovereign immunity for acts which fall under the governmental authority of the State. Foreign States are not entitled to sovereign immunity where it appears that they transacted as equals with a private person. Since there are no international law rules concerning the limits of international jurisdiction of States, each State is determining the international jurisdiction of its domestic courts in accordance with its domestic legislation and international treaties binding on them. Consequently, the criteria to determine which acts fall under the governmental authority of a state and which do not are set out in domestic law.