

ASIL

The American Society of International Law

INTERNATIONAL LEGAL MATERIALS

FEATURING:

1

Framework Convention for the Protection of the Marine Environment of the Caspian Sea

The Republic of Azerbaijan, the Islamic Republic of Iran, the Republic of Kazakhstan, the Russian Federation and Turkmenistan signed this Convention in order to protect the Caspian environment from all sources of pollution and to preserve and restore the resources of the Caspian Sea.

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European Court of Human Rights (ECHR): Case of Broniowski v. Poland

The applicant alleged that Poland failed to satisfy his entitlement to compensation for property belonging to his grandmother when the area was still part of Poland before the Second World War. The ECHR Grand Chamber held unanimously that Poland violated Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights. The Court also found that many similar claims were likely to arise and called upon the Polish authorities to take the necessary measures to secure the property rights at issue.

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International Centre for the Settlement of Investment Disputes (ICSID): MTD Equity SDN. BHD. and MTD Chile S.A. v. Republic of Chile

The tribunal held that the Republic of Chile breached its obligations under the fair and equitable treatment provisions of the 1992 Agreement between the Government of Malaysia and the Government of the Republic of Chile for the Promotion and Protection of Investments.

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Constitutional Court of South Africa: Samuel Kaunda and Others v. President of the Republic of South Africa and Others

The applicants contended that, because South Africa provided intelligence to Zimbabwe and Equatorial Guinea, which was the cause of their arrest in Zimbabwe and possible extradition to Equatorial Guinea, South Africa had a particular duty to exercise diplomatic protection to preserve their human rights under the South African Constitution and under international law. The Court held, "Currently the prevailing view is that diplomatic protection is not recognised by international law as a human right and cannot be enforced as such. To do so may give rise to more problems than it would solve. Diplomatic protection remains the prerogative of the state to be exercised at its discretion."

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