

NOTES & COMMENTS

Interpreting the United Nations Security Council Resolutions by the Domestic Courts: The Judgment of the High Court of Singapore on the Iranian Nuclear Program

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The scope of the maintenance of international peace and security has been increasingly widened by the United Nations Security Council in response to actions taken not only by the Member States but also in some cases by the individuals. In fact, a range of actions and decisions were taken by the Security Council, approximately in the late 1990s and after the so-called 9/11 attacks in the context of combating terrorism, as well as in other contexts against the member States. In consequence, the affected States and individuals had to seek redress from international or national courts on different grounds such as violations of human rights. This has led the domestic courts to develop novel jurisprudence. Thus, it is necessary to pay due attention to the jurisprudence created by these courts. This paper is devoted to analysis an

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interpretation by the High Court of Singapore in relation to sanctions resolutions of the Security Council against Iran.

Keywords

UNSC Resolution, Iranian Nuclear Program, High Court of Singapore, Judgment, IRISL

1. Introduction

What is the precise scope of the United Nations Security Council (“UNSC”)’s powers and functions? Under the UN Charter, the UNSC would take charge of addressing peacekeeping operations, authorizing recourse to force, imposing sanctions in the light of fight against terrorism, etc.¹ For the past two decades, however, there have been round of discussions, especially regarding the scope of the Security Council’s excessive enforcement measures. As the UNSC’s decisions would make a proactive influence on the whole aspects of international relations including reserve effects, these were invariably criticized by the member States.²

In particular, legality of the UNSC’s measure against terrorism has been examined internationally and internally; it has become subject matter of case laws.³

¹ U.N. Charter ch. VII. As some lawyers have correctly stated, the more the scope of SC activities, the more the challenges it faces, particularly, as a result of violation of sanctioned person and entities’ rights, especially in the case of individuals’ human rights. See A. Reinisch, *Should Judges Second-Guess the UN Security Council?*, 6 INT’L ORGS L. REV. 261 (2009).

² See, e.g., in the context of terrorism, Martin Scheinin, the former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, held the view that the well-known UNSC Resolution 1373 was *ultra vires* since it is of legislative character and accordingly is not limited to a given time and place. Also, it is in contradiction with fundamental human rights law and general international law specially in including persons’ name in the terrorist sanctions. See Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, UN Doc. A/HRC/16/51, Dec. 22, 2010, ¶ 11, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/134/10/PDF/G1013410.pdf?OpenElement> (last visited on Oct. 25, 2014).

³ It should be mentioned here that many judgments on terrorism were delivered by the regional and national courts which have formed a valuable jurisprudence in the sphere of protection of human rights. Definitely, among others, the leading judgment of the European Court of Justice in 2008 is an important example, which has created a wave on the various regimes of international law. Other key cases on terrorism which were considered by different regional and national courts are as follows: *World Help Association of France v France*, Judicial Review, CE No 262626, Nov. 3, 2004; *Kadi v Prime Ministry and Ministry of Foreign Affairs of Turkey*, Feb. 22, 2007; *Youssef Nada v State Secretariat for Economic Affairs and Federal Department of Economic Affairs*, Administrative appeal judgment, Case No. 1A 45/2007, ILDC 461 (CH 2007), Nov. 14, 2007; and *Hay v HM Treasury*, Administrative judgment (2009) EWHC 1677 (Admin), ILDC 1367 (UK 2009), July 10, 2009; *Abdelrazik v Minister of Foreign Affairs and Attorney General*