
Case Concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)

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This case involved an arrest warrant issued by Belgium on 11 April 2000 against Mr Abdulaye Yerodia Ndombasi for offences constituting grave breaches of the Geneva Conventions of 1949, and the Additional Protocols, as well as with crimes against humanity. Mr Yerodia was an acting foreign minister of the Democratic Republic of Congo at the time the warrant was issued. It was the first time that the Court addressed the question of sovereign immunity for a foreign minister as well as questions relating to the application of universal jurisdiction.

The case highlighted the likely conflict between holding individuals accountable for heinous international crimes and preserving sovereign immunity. Immunity was recognized for incumbent foreign ministers, although the immunity would not continue once the minister no longer held the post. The importance of maintaining proper international relations and respecting the function of a foreign minister supported the Court's reasoning. Immunity would cover all acts irrespective of whether they were international criminal acts. Immunity could also be lifted by the state of the accused national or before an international criminal tribunal. The customary international law status of sovereign immunity could not be trumped by the emerging state practice and international law governing international crimes that preclude sovereign immunity.

The case is also significant for the discussion by several judges on universal jurisdiction as well as remedies available to the parties. For the latter, the Court called upon Belgium to withdraw the arrest warrant since its mere issuance caused a moral injury to the Democratic Republic of Congo, therefore requiring restitution. On universal jurisdiction, it was conceded by most of the judges in the majority that its status was not reflective of customary international law. Some jurisdictional link was always present in the surveyed treaties or national court jurisprudence.

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