

**MIDDLE TEMPLE ROSAMUND SMITH MOOTING COMPETITION 2025**  
**IN THE SUPREME COURT OF JUSTICE**  
**IN THE MATTER OF THE INTERNATIONAL CRIMINAL COURT ARREST**  
**WARRANT**

**SLICK BLAGGER**

*Appellant*

-v-

**(1) WESMINSTER MAGISTRATES' COURT**  
**(2) COMMISSIONER OF POLICE FOR THE METROPOLIS**  
**(3) HIS MAJESTY'S PRISON BELMARSH**

*Respondents*

**MOOT PROBLEM**

1. The Republic of Massuman ("Massuman") and the United States of Rolostan (the "USR") have been engaged in an ongoing armed conflict since the early 1990's. The USR believed that Massuman was developing nuclear weapons which they feared would one day be used against them. Massuman has always maintained that its nuclear programme was only to develop an alternative energy source for the country. The International Atomic Energy Agency has consistently confirmed this to be the case.
2. On 3 March 2022 the USR launched a pre-emptive strike against Massuman's nuclear research facility. The attack caused massive destruction of the facility which, in turn, triggered a large explosion that led to the release of a large part of the radioactive reactor core into the environment and the deposition of radioactive materials into the surrounding area. More than 5,000 Massumanis in the surrounding area died, many more were injured and more than 50,000 will suffer long term consequences as a result of radiation exposure. It is believed that a large proportion of Massuman will now remain uninhabitable for approximately 15 to 20 years. The President of the USR, Slick Blagger, maintains that, notwithstanding the devastating loss of life, the strike was necessary to prevent a nuclear attack by Massuman on the USR.

3. Massuman has been a State Party to the International Criminal Court (“ICC”) since 1999. It is one of the ICC’s founding members. The USSR is not a State Party to the ICC. On 1 January 2024 the ICC issued an arrest warrant for President Blagger alleging that he, as Commander in Chief of the armed forces of the USSR, was responsible for War Crimes in Massuman under Article 8(2)(a) and (b) of the ICC Statute.
4. On 1 September 2024 President Blagger was travelling with his family by private jet to New York to address the UN General Assembly. While the plane was just outside of UK airspace, the UK Civil Aviation Authority sent a message to the pilot informing her that, due to extreme weather conditions over the Atlantic it was imperative that the plane land immediately. The pilot landed at Heathrow Airport. Once on the ground President Blagger and his family were invited to wait in the airport VIP lounge while further inquiries were made about whether it was safe to fly. Once in the VIP lounge President Blagger was arrested by UK police officers pursuant to the ICC arrest warrant. He was taken into custody. It then transpired there had been no inclement weather over the Atlantic and this had been a ruse engineered by UK police to encourage the pilot to land so that they could arrest President Blagger.
5. In accordance with section 5 of the International Criminal Court Act 2001 (“ICC Act 2001”) President Blagger was produced before District Judge Stipe at Westminster Magistrates Court on 2 September 2024. Blagger challenged his arrest and resisted transfer to the ICC on the basis that:
  - (i) As a serving Head of State he enjoys full immunity from prosecution: relying on *Bartle and the Commissioner of Police for the Metropolis and Others; Ex Parte Pinochet; R v Evans and Another and the Commissioner of Police for the Metropolis and Others, Ex Parte Pinochet v R* [1999] UKHL 17; and
  - (ii) That his surrender to the ICC would be an abuse of process as he had been tricked into UK jurisdiction, and but for that trickery it would not have been possible to arrest him: relying on *R v Horseferry Road Magistrates Court, ex parte Bennett (No. 1)* [1994] AC 42.
6. His arguments challenging arrest and surrender were dismissed. He applied to the High Court for *habeas corpus* pursuant to section 12 of the ICC Act 2001. The matter was heard by Mrs Justice Fair on 25 November 2024.
7. Mrs Justice Fair held that President Blagger did not enjoy Head of State Immunity. She relied upon Article 27 of the ICC Statute (Irrelevance of Official Capacity) and the ICC Appeals Chamber decision in *Prosecutor v Omar Hassan Ahmad Al-Bashir – Judgment in the Jordan Referral re Al-Bashir Appeal* 6 May 2019 (copy provided),<sup>1</sup> in particular paragraphs 95 to 162. Mrs Justice Fair cited section 50(5) of the ICC Act 2001 which provides that “*the*

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<sup>1</sup> *The Al-Bashir Case* [https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2019\\_02593.PDF](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2019_02593.PDF)

*court shall take into account any relevant judgment or decision of the ICC*” when interpreting and applying Articles 6, 7 and 8(2) of the ICC Statute. As the crimes alleged against Bagger are crimes under Article 8(2) she held that the Court could also rely on ICC decisions in interpreting section 23 of the ICC Act 2001 (Provisions as to state or diplomatic immunity).

8. She further held that even if President Bagger had been tricked into landing in the UK, it would not be an abuse of process for him to be surrendered to the ICC. In so doing she placed considerable reliance on the decision of the UN International Criminal Tribunal for the former Yugoslavia (“ICTY”) in *Prosecutor v Mrksic & Others* “Decision on the Motion for Release by the Accused Slavko Dokmanović”,<sup>2</sup> 22 October 1997, (copy provided), in particular the Trial Chamber’s reasoning set out at paragraphs 57 to 78.
9. President Bagger appeals to the Supreme Court. The three Respondents are jointly represented.
10. The Supreme Court has directed that:
  - (i) Leading counsel should address whether Slick Bagger’s position as Head of State meant he was immune from arrest for the purpose of his surrender to the ICC; and that
  - (ii) Junior counsel should address whether the manner in which Slick Bagger was lured into the UK means it would be an abuse of process to surrender him to the ICC.

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<sup>2</sup> *The Dokmanovic Case*