

## Bosphorus Double standards in European human rights protection?

Kathrin Kuhnert LLM, Trainee Lawyer at Redeker Sellner Dahs & Widmaier, Berlin

### Abstract

This paper describes the main facts and findings of the *Bosphorus* judgment and analyses its legal assessment of the controversial question of the European Court of Human Rights' (ECtHR) jurisdiction to review EC law. A historic review of ECtHR case-law shows that – despite a rather inconsistent approach – Community acts have become subject to expanding judicial scrutiny by the Strasbourg Court. EU Member States can now be held responsible for (nearly) all Community acts by the mere fact that they have implemented them. This creates a dilemma, as EU Member States have to comply with different obligations flowing from the European Convention of Human Rights (ECHR) and from Community law. Moreover, the question is highlighted whether, with this judgment, the ECtHR has acknowledged a double standard in human rights protection between EU Member States and non-EU Member States of the Council of Europe.

It is argued in this contribution that after the geographic enlargement of Europe, the boundaries of human rights jurisdiction must also expand legally, providing the EU with consistency in its external human rights policy. Therefore, the accession of the EC and the EU to the ECHR seems inevitable.

### Keywords

(secondary) Community law; human rights; review; ECtHR; jurisdiction

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